
The preamble and the adopted amendments and new sections, attached to this minute order as Exhibits A - J, are incorporated by reference as though set forth at length verbatim in this minute order.


The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.
Adoption Preamble


EXPLANATION OF ADOPTED AMENDMENTS AND NEW SECTIONS

The adopted amendments and new sections are necessary to implement the provisions of House Bill 2093, 80th Legislature, Regular Session, 2007; to clarify existing information; update statutory references; add guidelines regarding fees and the issuance of envelope vehicle permits; and streamline the permit-issuing processes used by the Port of Brownsville and by Chambers County.

House Bill 2093 increases certain oversize and overweight permit fees and gives the department the authority to investigate, enforce, impose administrative penalties, and revoke credentials for violating statutes, rules, or orders regarding oversize and overweight limits or for providing false information on any documentation submitted to the department. The bill also
The term "temporary registration" was changed to "temporary vehicle registration" throughout 43 TAC Chapter 28 to distinguish between motor carrier registration (credentialing) and motor vehicle registration under Transportation Code, Chapter 502.

Amendments to §28.2 provide additional definitions and clarify terms used throughout this chapter and add terms used in the new enforcement process. Definitions for truck and truck-tractor are added to provide precise definitions of these two terms for the purposes of this chapter. The department has changed the definition of director to add the language "or a designee not below the level of division director" to conform the provisions of 43 TAC Chapter 28 with 43 TAC with Chapter 18. This change allows the department to handle the administrative enforcement provisions for both motor carrier registration and oversize and overweight permits with the same process.

Amendments to §28.11 increase permit fees to comply with the provisions of House Bill 2093. The bill increased the permit
fees in Transportation Code, §623.076 and the maintenance fees in Transportation Code, §623.077. References to fees in Figure 43 TAC §28.30(e)(3)(C) in this section were amended to correspond with the new statutory fees.

Section 28.11 is also amended to correct a statutory reference to the Insurance Code. The requirement for nonresident insurance agents is now located in Insurance Code, Chapter 4056, Nonresident Agent.

Amendments to §28.12 increase the fee for a single trip permit issued under Transportation Code, §623.076 to correspond with the statutory fee increase from House Bill 2093.

Amendments to §28.13 increase fees for 30-day, 60-day, and 90-day permits and annual permits for implements of husbandry and water well drilling machinery due to changes in Transportation Code, §623.076. The fee increases correspond with the statutory increases from House Bill 2093.

The amendment to §28.13(e)(4)(A)(iii) increases the fee for annual envelope vehicle permits from $2,000 to $4,000. Transportation Code, §623.071(c) and (d) states that the department may issue annual permits for the transport of overweight or oversize equipment that does not exceed 12 feet
wide, 14 feet high, 110 feet long, and 120,000 pounds. These
permits are commonly referred to as annual envelope permits.
Before being amended by House Bill 2093, Transportation Code,
§623.076(c) authorized the Texas Transportation Commission
(commission) by rule to set the fee for an annual envelope
permit in an amount not to exceed $3,500. The commission set
the fee at $2,000. The fee for a corresponding single trip
permit to transport one load was $80, which is the sum of the
$30 permit fee (Transportation Code, §623.076(a)(1)) and the $50
maintenance fee (Transportation Code, §623.077(a)). Under that
fee schedule, it was cost effective for customers who projected
the need in one year for more than 25 single trip permits to
transport loads that would qualify for an annual envelope permit
to purchase the annual permit in lieu of single trip permits
($80 single trip permit fee x 25 permits = $2,000).

In general, House Bill 2093 doubled or tripled the fees for the
oversize/overweight permit types issued by the department.
Amendments to Transportation Code, §623.076(a)(1) and §623.077
increase the fee for a single trip permit for loads comparable
to those allowed under an annual envelope permit from $80 to
$210. Additionally, the bill doubled the maximum provided for
annual envelope permits under Transportation Code, §623.076(c)
to $7,000. Without an increase in the fee for an annual
envelope permit the break-even point decreases from 25 to about
10 single trip permits. Increasing the fee for an annual envelope permit to $4,000 provides a break-even point at about 19 single trip permits, which is much closer to the original fee structure.

The $4000 annual envelope permit fee will go into effect June 1, 2008. All annual envelope permit applications for an initial permit received after June 1, 2008 will require the $4000 permit fee. All current annual envelope permit holders with permits expiring after May 31, 2008 will be notified of the increased fee in the renewal notice.

New §28.13(e)(4)(C), (D), and (E) aid the department in decreasing the number of fraudulent requests for replacement of an original annual envelope vehicle permit--company specific, by providing an audit trail when the first permit is received. This type of permit is to be carried in only one vehicle at a time. Fraudulent requests occur when an applicant desires to operate multiple vehicles simultaneously without paying additional permit fees. Without an audit trail, the department is forced to honor each permit replacement request, at the expense of lost revenue to the state.

The seven-day waiting period for receipt of the initial permit is to allow more than reasonable time for the customer to
receive the permit, regardless of how remote an address may be.
Registered mail and overnight delivery services normally take
less than five days. During this seven-day period, permit
replacement requests will not be accepted or considered. The
10-day waiting period after the date the permit is issued, for
initiation of a request for replacement, simply adds three days
to allow sufficient time for tracking records to be in place
before a request can be reviewed. These periods are to maintain
a timely response process.

Currently, there is nothing in the rules that allows the
department to refuse fraudulent requests for duplicate permits.
This amendment levels the playing field for customers, including
those who do pay for multiple permits to legally operate
multiple trucks. It also allows the department to collect more
fees that are used to repair road damage caused by these
oversize/overweight loads.

The amendment to §28.14(d) increases the fee for a manufactured
housing and industrialized housing and building
oversize/overweight permit, to comply with the changes to
Transportation Code, §623.096(a).

The amendment to §28.15(d) increases the fee for a portable
building unit oversize/overweight permit, to comply with the
Amendments to §28.16 clarify existing language to state that military and government agencies are eligible for all oversize/overweight permits issued by the department, that military and government entities do not have to pay the permit fee as long as the load is transported on vehicles with exempt license plates, and that all permit restrictions and requirements apply. The language currently implies that only route restricted oversize and overweight permits were available to government and military entities free of charge. Additional changes were made to this section to correct references to other subchapters of 43 TAC Chapter 28.

The amendment to the figure in §28.30 increases annual permit fees for over axle and over gross weight tolerances to comply with the new provisions of Transportation Code, §623.0111(a)(2).

The amendment to §28.64 increases annual unladen lift permit fees to comply with the new provisions of Transportation Code, §623.182.

Amendments to 43 TAC Chapter 28, Subchapter G, Port of Brownsville Port Authority Permits and Subchapter H, Chambers County Permits make the language of the subchapters more
consistent with each other. The Port of Brownsville and
Chambers County both are statutorily authorized to issue
overweight and oversize permits for specific roadways in their
jurisdictions. The two programs are handled in the same manner
so the provisions for each subchapter should be consistent.

Amendments to §28.91 and §28.101 allow the department to
determine if a bond is necessary to offset the cost of
maintenance. Under this change the department may require the
bond only if the sale of permits has not generated sufficient
funds to cover the cost of the roadway maintenance. The Port of
Brownsville permit sales have established that the continued
requirement of the bond is unnecessary because sufficient
maintenance funds have been available from the permit fees. The
change to this rule allows the department to waive the bond
requirement.

All other amendments to §28.91, §28.92, §28.101, and §28.102
make the requirements and language consistent between Port of
Brownsville Authority Permits and Chambers County Permits,
reorganize the sections so that the information is in a more
understandable format, clarify the existing language, and update
processes that have recently been automated. The changes
include deleting the name of the employee who issued the permit
from the permit requirements because most permits are processed
automatically without employee involvement in the process. The language is amended to clarify that the funds must be deposited into the state highway fund as required by statute. This change also requires an amendment to the maintenance contract requirements to remove the requirement that the permitting entity make payments to the department for maintenance.

New Subchapter I, Compliance, sets out the procedures for citing violations related to the operation of vehicles on public roadways in excess of maximum weight, height, and width requirements.

New §28.110, Purpose, provides the purpose of the new subchapter.

New §28.111, Applicability, provides that a person operating on a public roadway without an oversize or overweight permit shall comply with the weight and size restrictions of Transportation Code, Chapters 621, 622, and 623. This section also requires a person operating a vehicle under an overweight or oversize permit to comply with all the provisions of the permit. This section is added to provide notification to motor carriers and other operating oversize and overweight vehicles that failure to obtain a required permit or to abide by the provisions and conditions of the issued permit could lead to enforcement.
New §28.112, Falsification of Information on Application and Permit, provides that a person who gives false information on a permit application or other required forms commits a violation that is subject to enforcement under Subchapter K, Enforcement. The new section also prohibits a person from altering a permit issued by the department or counterfeiting a permit. This section is added to ensure that the public understands that failure to provide correct information when requesting a permit can lead to enforcement action.

New §28.113, Shipper Certificate of Weight, provides the requirements for a shipper's certificate of weight to be valid. The certificate is authorized by Transportation Code, §623.274, as added by House Bill 2093. The new certificate can be used by the permit holder to provide an affirmative defense to overweight violations based on weight of the commodity being transported. The new section requires that the permit holder obtain the shipper's certification before applying for the permit and that the shipper certify that the information on the certificate is correct. In response to comments, this section now provides that a shipper's certificate of weight is also valid if it is delivered before the transportation of the shipment begins if the transporter determines from the
certificate that a permit is not required. New language for new subsection (b) now provides that a motor carrier with an annual envelope permit may rely on a certificate issued after the annual permit has been issued. The former subsection (b) is re-designated as subsection (c) and revised to clarify that obtaining a permit is not a prerequisite for the use of the affirmative defense provided by that subsection.

New §28.114, Compliance with Remote Permit System, provides guidance for persons authorized by contract to access the electronic application process. This new section grants the department the authority to seek administrative sanctions against a person who does not comply with the terms of the contract and the conditions of the permits.

New §28.115, Permits Issued by Another State, provides that a permit issued by another state under a reciprocal agreement is subject to all provisions of 43 TAC Chapter 28 and to the applicable provisions of Transportation Code, Chapters 621, 622, and 623. This new section will allow the department to enforce the department's overweight and oversize permit rules for permits issued under the reciprocal agreements.

New §28.116, Permit Compliance, provides that a permit issued under this chapter is invalid immediately upon violation of a
rule, condition, or requirement placed on the permit. The rule clarifies that once the permit is invalid, movement of the overweight or oversize vehicle over a public roadway is no longer authorized and may lead to enforcement action.

New Subchapter J, Records and Inspections, provides requirements for how applicable records must be maintained and how long the records are to be maintained, and describes the department's procedures for examining the records.

New §28.200, Purpose, provides the justification for the new subchapter.

New §28.201, Investigations and Inspections of Records, sets out that the department can enter a person's place of business during normal business hours to investigate violations under Transportation Code, Chapter 621, 622, or 623 or 43 TAC Chapter 28. The department must have access to the person's records to investigate any potential violations. The section provides that the inspector will provide proof of the inspector's authority to inspect the records by presenting credentials and a written statement from the department indicating the authority. In addition the section also provides that the department can designate a time and location for the inspection of the records if the time and location cannot be agreed upon by the parties.
involved. This authority will prevent a person from avoiding administrative sanctions by prohibiting access to the records necessary to conduct an investigation.

New §28.202, Records, provides what records must be maintained and where the records must be located. The records include those types of records used by motor carriers in their daily operation that relate to the movement and weight of shipments and other records required elsewhere in 43 TAC Chapter 28 or the Transportation Code. This section requires that the records be maintained not less than two years at the person's principal business address. This section also requires that a copy of the permit be maintained in the vehicle for which the permit was issued during the period that the permit is being used. These requirements will ensure that the records necessary for the department to investigate overweight and oversize violations are maintained by the person and are available for inspection when needed.

New Subchapter K, Enforcement, is added to provide the administrative process for enforcement actions for violations of 43 TAC Chapter 28. House Bill 2093 authorized the department to take administrative action against motor carriers or individuals who violate the weight and size restrictions for vehicles or violate a provision of an overweight or oversize permit.
New §28.300, Purpose, lists the purpose of the new subchapter.

New §28.301, Administrative Penalties, describes the administrative penalties the department will seek for violations of 43 TAC Chapter 28. This section sets out the amounts of penalties, not to exceed $5,000 for each violation or $15,000 if the person knowingly committed the violation. The penalties in this section comply with the penalties of Transportation Code, §643.251. This section also provides that the penalty recommendation will be based on certain factors including the seriousness of the violation, economic harm, history of previous violations, amount necessary to deter future violations, efforts to correct violations, and any other matters that justice may require. These factors are the same factors used under 43 TAC Chapter 18, for similar motor carrier enforcement procedures.

New §28.302, Administrative Sanctions, describes the administrative sanctions the department may seek for violations of 43 TAC Chapter 28. House Bill 2093 authorized the department to revoke, suspend, or deny overweight and oversize permits if the person violates any provision of 43 TAC Chapter 28 or Transportation Code, Chapters 621, 622, or 623. This section also provides the guidelines for the probation of a suspension of a permit. These guidelines will help ensure that the
department is consistent in administering the probation program.

New §28.303, Implications for Nonpayment of Penalties; Grounds for Action, provides that if the person fails to pay an administrative penalty assessed under this subchapter the department may not issue oversize or overweight permits to the individual. As authorized by House Bill 2093, this provision will prevent a person from ignoring penalty obligations by requiring that they pay prior penalties before a new permit can be issued.

New §28.304, Administrative Proceedings, is added to provide the notice requirements for the new administrative hearing process. The language tracks Transportation Code, §643.2525 and clarifies the two types of notices mailed to the alleged violator.

New §28.305, Settlement Agreements, details the settlement agreement process. The department may enter into a compromise settlement agreement with an alleged violator any time before the issuance of a final order. This section provides that the agreement must include a clause that allows the department the authority to revoke the agreement if the alleged violator fails to abide by the terms of the agreement. This provision will ensure that the department continues to have authority to enforce future compliance.
New §28.306, Administrative Penalty for False Information on Certificate by a Shipper, provides that the department may investigate and impose penalties against a shipper who provides false information on a shipper's certificate of weight. This section provides for how the notice and hearing requirements will be handled and how the amount of administrative penalties will be determined.

COMMENTS

One comment on the proposed amendments and new section was received from the Texas Motor Transportation Association (TMTA). TMTA stated that they support the proposed rules with the exception of the language in §28.113, Shipper Certificate of Weight.

Comment: TMTA commented that the language in §28.113 does not consider a situation in which a motor carrier, or motor carrier that holds an annual envelope permit, determines, based on the weight given by the shipper, that an overweight permit or additional overweight permit is not required and later finds out that the shipper underestimated the actual weight of the load.

Response: The department agrees with the comment. The language of the rule is subject to that misinterpretation. The
department intends to allow a motor carrier to rely on the
shipper's certificate of weight to determine whether an
overweight permit or additional overweight permit is required.
If the weight of the shipment provided on the certificate does
not require the carrier to obtain a permit or an additional
permit, the carrier should be able to rely on that information
and present the certificate during any enforcement action to
show that the weight information on which it relied was
incorrect. The department does not intend that the carrier
obtain a permit as a prerequisite for relying on the weight
information provided by the shipper in the certificate.
Accordingly, the language in §28.113(a) is revised to add that a
shipper's certificate of weight is valid if it is delivered
before the transportation of the shipment begins if the
transporter determines from the certificate that a permit is not
required. A new §28.113(b) is added to expressly provide that
the holder of an annual envelope permit may rely on the weight
information on the certificate to determine whether an
additional overweight permit is required for the shipment.
Former §28.113(b) is re-lettered as subsection §28.113(c) and
revised to clarify that obtaining a permit is not a prerequisite
for the use of the affirmative defense provided by that
subsection.

STATUTORY AUTHORITY
The amendments and new sections are adopted under Transportation Code, §201.101, which provides the commission with the authority to establish rules for the conduct of the work of the department, and more specifically, Transportation Code, §623.076(c), which authorizes the commission to establish the fee for certain oversize or overweight permits.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 621, 622, 623, and 643.
SUBCHAPTER A. GENERAL PROVISIONS

§28.2. Definitions. The following words and terms, when used in this chapter, will have the following meanings, unless the context clearly indicates otherwise.

(1) Annual permit--A permit that authorizes movement of an overdimension load for one year commencing with the "movement to begin" date.

(2) Applicant--Any person, firm, or corporation requesting a permit.

(3) Axle--The common axis of rotation of one or more wheels whether power-driven or freely rotating, and whether in one or more segments.

(4) Axle group--An assemblage of two or more consecutive axles, with two or more wheels per axle, spaced at least 40 inches from center of axle to center of axle, equipped with a weight-equalizing suspension system that will not allow more than a 10% weight difference between any two axles in the group.

(5) Cash collection office--An office that has been designated as the place where a permit applicant can apply for a permit or pay for a permit with cash, cashier's check, personal or business check, or money order.

(6) Closeout--The procedure used by the MCD to terminate a permit, issued under Transportation Code, §623.142 or §623.192.

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that will not be renewed by the applicant.

(7) Commission--The Texas Transportation Commission.

(8) Complete identification number--A unique and distinguishing number assigned to equipment or a commodity for purposes of identification.

(9) Concrete pump truck--A self propelled vehicle designed to pump the concrete product from a ready mix truck to the point of construction.

(10) Crane--Any unladen lift equipment motor vehicle designed for the sole purpose of raising, shifting, or lowering heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for such purpose.

(11) Credit card--A credit card approved by the department and a permit account card.

(12) Daylight--The period beginning one-half hour before sunrise and ending one-half hour after sunset.

(13) Department--The Texas Department of Transportation.

(14) Digital signature--An electronic identifier intended by the person using it to have the same force and effect as a manual signature. The digital signature shall be unique to the person using it.

(15) Director--The Executive Director of the Texas Department of Transportation.

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Department of Transportation or a designee not below the level of division director.

(16) District--One of the 25 geographical areas, managed by a district engineer, in which the department conducts its primary work activities.

(17) District engineer--The chief executive officer in charge of a district of the department.

(18) Electronic identifier--A unique identifier which is distinctive to the person using it, is independently verifiable, is under the sole control of the person using it, and is transmitted in a manner that makes it infeasible to change the data in the communication or digital signature without invalidating the digital signature.

(19) Escort vehicle--A motor vehicle used to warn traffic of the presence of a permitted vehicle.

(20) Foreign commercial vehicle annual registration--An annual registration permit issued by the department to foreign commercial vehicles under authority of Transportation Code, §502.353.

(21) Four-axle group--Any four consecutive axles, having at least 40 inches from center of axle to center of axle, whose extreme centers are not more than 192 inches apart and are individually attached to or articulated from, or both, to the
vehicle by a weight equalizing suspension system.

(22) Gauge--The transverse spacing distance between tires on an axle, expressed in feet and measured to the nearest inch, from center-of-tire to center-of-tire on an axle equipped with only two tires, or measured to the nearest inch from the center of the dual wheels on one side of the axle to the center of the dual wheels on the opposite side of the axle.

(23) Gross weight--The unladen weight of a vehicle or combination of vehicles plus the weight of the load being transported.

(24) Height pole--A device made of a non-conductive material, used to measure the height of overhead obstructions.

(25) Highway maintenance fee--A fee established by Transportation Code, §623.077, based on gross weight, and paid by the permittee when the permit is issued.

(26) Highway use factor--A mileage reduction figure used in the calculation of a permit fee for a permit issued under Transportation Code, §623.142 and §623.192.

(27) Hubometer--A mechanical device attached to an axle on a unit or a crane for recording mileage traveled.

(28) HUD number--A unique number assigned to a manufactured home by the U.S. Department of Housing and Urban Development.
(29) Indirect cost share—A prorated share of administering department activities, other than the direct cost of the activities, including the cost of providing statewide support services.

(30) Load-restricted bridge—A bridge that is restricted by the commission, under the provisions of Transportation Code, §621.102, to a weight limit less than the maximum amount allowed by Transportation Code, §621.101.

(31) Load-restricted road—A road that is restricted by the commission, under the provisions of Transportation Code, §621.102, to a weight limit less than the maximum amount allowed by Transportation Code, §621.101.

(32) Machinery plate—A license plate issued under Transportation Code, §504.504.

(33) Manufactured home—Manufactured housing, as defined in Occupations Code, Chapter 1201, and industrialized housing and buildings, as defined in Occupations Code, §1202.002, and temporary chassis systems, and returnable undercarriages used for the transportation of manufactured housing and industrialized housing and buildings, and a transportable section which is transported on a chassis system or returnable undercarriage that is constructed so that it cannot, without dismantling or destruction, be transported within legal size.
limits for motor vehicles.

(34) Motor carrier--A person that controls, operates, or
directs the operation of one or more vehicles that transport
persons or cargo over a public highway in this state, as defined
in §18.2 of this title (relating to Definitions).

(35) Motor Carrier Division (MCD)--The Motor Carrier
Division of the department.

(36) Motor carrier registration (MCR)--The registration
issued by the department to motor carriers moving intrastate,
under authority of Transportation Code, Chapter 643 as amended.

(37) Nighttime--The period beginning one-half hour after
sunset and ending one-half hour before sunrise, as defined by
Transportation Code, §541.401.

(38) Nondivisible load--A load that cannot be reduced to
a smaller dimension without compromising the integrity of the
load or requiring more than eight hours of work using
appropriate equipment to dismantle.

(39) [38] Oil field rig-up truck--An unladen vehicle
with an overweight single steering axle, equipped with a winch
and set of gin poles used for lifting, erecting, and moving oil
well equipment and machinery.

(40) [39] Oil well servicing unit--An oil well clean-
out unit, oil well drilling unit, or oil well swabbing unit,
which is mobile equipment, either self-propelled or trailer-mounted, constructed as a machine used solely for cleaning-out, drilling, servicing, or swabbing oil wells, and consisting in general of, but not limited to, a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for this purpose.

(41) One trip registration--Temporary vehicle registration issued under Transportation Code, §502.354.

(42) Overdimension load--A vehicle, combination of vehicles, or vehicle and its load that exceeds maximum legal width, height, length, overhang, or weight as set forth by Transportation Code, Chapter 621, Subchapters B and C.

(43) Overhang--The portion of a load extending beyond the front or rear of a vehicle or combination of vehicles.

(44) Overheight--An overdimension load that exceeds the maximum height specified in Transportation Code, §621.207.

(45) Overlength--An overdimension load that exceeds the maximum length specified in Transportation Code, §621.203, §621.204, §621.205, and §621.206.

(46) Overweight--An overdimension load that exceeds the maximum weight specified in Transportation Code,
§621.101.

Overwidth—An overdimension load that exceeds the maximum width specified in Transportation Code, §621.201.

Permit—Authority for the movement of an overdimension load, issued by the MCD under Transportation Code, Chapter 623.

Permit account card (PAC)—A debit card that can only be used to purchase a permit or temporary vehicle registration and which is issued by a financial institution that is under contract to the department and the Comptroller of Public Accounts.

Permit officer—An employee of the MCD who is authorized to issue an oversize/overweight permit or temporary vehicle registration.

Permit plate—A license plate issued under Transportation Code, §504.504, to a crane or an oil well servicing vehicle.

Permitted vehicle—A vehicle, combination of vehicles, or vehicle and its load operating under the provisions of a permit.

Permittee—Any person, firm, or corporation that is issued an oversize/overweight permit or temporary vehicle registration by the MCD.

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Pipe box--A container specifically constructed to safely transport and handle oil field drill pipe and drill collars.

Portable building compatible cargo--Cargo, other than a portable building unit, that is manufactured, assembled, or distributed by a portable building unit manufacturer and is transported in combination with a portable building unit.

Portable building unit--The pre-fabricated structural and other components incorporated and delivered by the manufacturer as a complete inspected unit with a distinct serial number whether in fully assembled, partially assembled, or kit (unassembled) configuration when loaded for transport.

Principal--The person, firm, or corporation that is insured by a surety bond company.

Recyclable materials--Material that has been recovered or diverted from the solid waste stream for purposes of reuse, recycling, or reclamation, a substantial portion of which is consistently used in the manufacture of products which may otherwise be produced using raw or virgin materials. Recycled material is not solid waste unless the material is deemed to be hazardous solid waste by the Administrator of the United States Environmental Protection Agency, whereupon it

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shall be regulated accordingly unless it is otherwise exempted in whole or in part from regulation under the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq.), by Environmental Protection Agency regulation. However, recyclable material may become solid waste at such time, if any, as it is abandoned or disposed of rather than recycled, whereupon it will be solid waste with respect only to the party actually abandoning or disposing of the material.

(59) [58] Registration reduction--A 25% reduction of the permit fee that applies to a crane or oil well servicing unit registered for maximum legal weight.

(60) Shipper--Person who consigns the movement of a shipment.

(61) Shipper's certificate of weight--A form approved by the department in which the shipper certifies to the maximum weight of the shipment being transported.

(62) [59] Single axle--An assembly of two or more wheels whose centers are in one transverse vertical plane or may be included between two parallel transverse planes 40 inches apart extending across the full width of the vehicle.

(63) [60] Single state registration (SSR)--Interstate registration authority issued to motor carriers under authority

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Single-trip permit--A permit issued for an overdimension load for a single continuous movement over a specific route for an amount of time necessary to make the movement.

State highway--A highway or road under the jurisdiction of the Texas Department of Transportation.

State highway system--A network of roads and highways as defined by Transportation Code, §221.001.

Surety bond--An agreement issued by a surety bond company to a principal that pledges to compensate the department for any damage that might be sustained to the highways and bridges by virtue of the operation of the equipment for which a permit was issued. A surety bond is effective the day it is issued and expires at the end of the state fiscal year, which is August 31st. For example, if you obtain a surety bond on August 30th, it will expire the next day at midnight.

Tare weight--The empty weight of any vehicle transporting an overdimension load.

Temporary vehicle registration--A 72-hour temporary vehicle registration, 144-hour temporary vehicle registration, or one-trip registration, as defined by Transportation Code, §502.352.
(70) [67] Three-axle group--Any three consecutive axles, having at least 40 inches from center of axle to center of axle, whose extreme centers are not more than 144 inches apart, and are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(71) [68] Time permit--A permit issued for a specified period of time under §28.13 of this title (relating to Time Permits issued under Transportation Code, Chapter 623, Subchapter D) and in accordance with Transportation Code, Chapter 623.

(72) [69] Traffic control device--All traffic signals, signs, and markings, including their supports, used to regulate, warn, or control traffic.

(73) [70] Trailer mounted unit--An oil well clean-out, drilling, servicing, or swabbing unit mounted on a trailer, constructed as a machine used for cleaning out, drilling, servicing, or swabbing oil wells, and consisting in general of, but not limited to, a mast, an engine for power, a draw works, and a chassis permanently constructed or assembled for this purpose.

(74) Truck--A motor vehicle designed, used, or maintained primarily for the transportation of property.

(75) Truck-tractor--A motor vehicle designed or used...
primarily for drawing another vehicle:

(A) that is not constructed to carry a load other than a part of the weight of the vehicle and load being drawn; or

(B) that is engaged with a semitrailer in the transportation of automobiles or boats and that transports the automobiles or boats on part of the truck-tractor.

(76) [471] Trunnion axle--Two individual axles mounted in the same transverse plane, with four tires on each axle, that are connected to a pivoting wrist pin that allows each individual axle to oscillate in a vertical plane to provide for constant and equal weight distribution on each individual axle at all times during movement.

(77) [472] Trunnion axle group--Two or more consecutive trunnion axles whose centers are at least 40 inches apart and which are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(78) [473] Two-axle group--Any two consecutive axles whose centers are at least 40 inches but not more than 96 inches apart and are individually attached to or articulated from, or both, to the vehicle by a weight equalizing suspension system.

(79) [474] Unit--Oil well clean-out unit, oil well drilling unit, oil well servicing unit, and/or oil well swabbing unit.
(80) Unladen lift equipment motor vehicle--A motor vehicle designed for use as lift equipment used solely to raise, shift, or lower heavy weights by means of a projecting, swinging mast with an engine for power on a chassis permanently constructed or assembled for such purpose.

(81) Variable load suspension axles--Axles, whose controls must be located outside of and be inaccessible from the driver's compartment, that can be regulated, through the use of hydraulic and air suspension systems, mechanical systems, or a combination of these systems, for the purpose of adding or decreasing the amount of weight to be carried by each axle during the movement of the vehicle.

(82) Vehicle--Every device in or by which any person or property is or may be transported or drawn upon a public highway, except devices used exclusively upon stationary rails or tracks.

(83) Vehicle identification number--A unique and distinguishing number assigned to a vehicle by the manufacturer or by the department in accordance with §17.3(b) of this title (relating to Motor Vehicle Certificates of Title) for the purpose of identification.

(84) Vehicle supervision fee--A fee required by Transportation Code, §623.078, paid by the permittee to the
department, designed to recover the direct cost of providing
safe transportation of a permit load exceeding 200,000 pounds
gross weight over a state highway, including the cost for bridge
structural analysis, monitoring the progress of the trip, and
moving and replacing traffic control devices.

(85) Water Well Drilling Machinery--Machinery used
exclusively for the purpose of drilling water wells, including
machinery that is a unit or a unit mounted on a conventional
vehicle or chassis.

(86) Weight-equalizing suspension system--An
arrangement of parts designed to attach two or more consecutive
axles to the frame of a vehicle in a manner that will equalize
the load between the axles.

(87) Windshield sticker--Identifying insignia
indicating that an over axle/over gross weight tolerance permit
has been issued in accordance with Subchapter C of this chapter
(relating to Permits for Over Axle and Over Gross Weight
Tolerances) and Transportation Code, §623.011.

(88) Year--A time period consisting of 12
consecutive months that commences with the "movement to begin"
date stated in the permit.

(89) 72-hour temporary vehicle registration--
Temporary vehicle registration issued by the MCD authorizing a

NOTE: Additions underlined Deletions in [   ]
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vehicle to operate at maximum legal weight on a state highway
for a period not longer than 72 consecutive hours, as prescribed
by Transportation Code, §502.352.

(90) [85] 144-hour temporary vehicle registration--
Temporary vehicle registration issued by the MCD authorizing a
vehicle to operate at maximum legal weight on a state highway
for a period not longer than 144 consecutive hours, as
prescribed by Transportation Code, §502.352.
SUBCHAPTER B. GENERAL PERMITS


(a) Purpose and scope. This section contains general requirements relating to oversize/overweight permits, including single trip permits. Specific requirements for each type of specialty permit are provided for in this chapter.

(b) Prerequisites to obtaining an oversize/overweight permit. Unless exempted by law or this chapter, the following requirements must be met prior to the issuance of an oversize/overweight permit.

(1) Commercial motor carrier registration or surety bond. Prior to obtaining an oversize/overweight permit, an applicant permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, must be registered as a commercial motor carrier under Chapter 18 of this title (relating to Motor Carriers) or, if not required to obtain a motor carrier registration, file a surety bond with the department as described in subsection (n) of this section.

(2) Vehicle registration. A vehicle registered with a permit plate will not be issued an oversize/overweight permit under this subchapter. A permitted vehicle operating under this subchapter must be registered with one of the following types of...
vehicle registration:

   (A) current Texas license plates that indicate the
   permitted vehicle is registered for maximum legal gross weight
   or the maximum weight the vehicle can transport;

   (B) Texas temporary vehicle registration;

   (C) current out of state license plates that are
   apportioned for travel in Texas; or

   (D) foreign commercial vehicles registered under Texas
   annual registration.

(c) Permit application.

   (1) An application for a permit may be made to the MCD by
   telephone, by facsimile, electronically, or in person at a cash
   collection office. All applications shall be made on a form
   prescribed by the department, and all applicable information
   shall be provided by the applicant, including:

   (A) name, address, and telephone number of applicant;

   (B) applicant's customer identification number;

   (C) applicant's motor carrier registration number or
   single state registration number, if applicable;

   (D) complete load description, including maximum width,
   height, length, overhang, and gross weight;

   (E) complete description of equipment, including truck
   make, license plate number and state of issuance, and vehicle
identification number, if required;

(F) equipment axle and tire information including number of axles, distance between axles, axle weights, number of tires, and tire size for overweight permit applications; and

(G) any other information required by law.

(2) Applications transmitted electronically are considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application.

(A) The department may only accept a digital signature used to authenticate an application under procedures that comply with any applicable rules adopted by the Department of Information Resources regarding department use or acceptance of a digital signature.

(B) The department may only accept a digital signature to authenticate an application if the digital signature is:

(i) unique to the person using it;

(ii) capable of independent verification;

(iii) under the sole control of the person using it; and

(iv) transmitted in a manner that will make it infeasible to change the data in the communication or digital signature without invalidating the digital signature.
(3) All permit applications shall be accompanied by the appropriate fees described in this paragraph, in a payment method described in subsection (f) of this section.

(A) The fee for a single trip (not exceeding 80,000 pounds) permit is $60 [$30]. Fees for other types of permits are indicated in the appropriate subchapters of this chapter.

(B) Highway maintenance fees are as indicated in the following table, and are in addition to the permit fee.

Figure: 43 TAC §28.11(c)(3)(B)

<table>
<thead>
<tr>
<th>Gross weight in pounds</th>
<th>Highway Maintenance Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>80,001-120,000</td>
<td>$150 [$50]</td>
</tr>
<tr>
<td>120,001-160,000</td>
<td>$225 [$75]</td>
</tr>
<tr>
<td>160,001-200,000</td>
<td>$300 [$100]</td>
</tr>
<tr>
<td>200,001-above</td>
<td>$375 [$125]</td>
</tr>
</tbody>
</table>

(C) Vehicle supervision fees are as indicated in the following table, and are in addition to the permit fee and the highway maintenance fee.

Figure: 43 TAC §28.11(c)(3)(C)

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Vehicle Supervision Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>200,001 – 254,300 pounds total and at least 95 feet over all axle spacings and not exceeding the maximum permittable weight on any axle or axle group, as described in subsection (d) of this section.</td>
<td>$35</td>
</tr>
<tr>
<td>200,001 – 254,300 pounds total with less than 95 feet overall axle spacings, or is over the maximum permittable weight on any axle or axle group, or is over 254,300 pounds gross weight.</td>
<td>$500; $35 for an additional identical load to be moved over the same route within 30 days of the movement date of the original permit; $100 if no bridges are crossed</td>
</tr>
</tbody>
</table>
(4) The MCD is closed on:

(A) Sundays;
(B) New Year's Day;
(C) Memorial Day;
(D) Independence Day;
(E) Labor Day;
(F) Thanksgiving Day and the Friday following Thanksgiving Day;
(G) Christmas Eve and Christmas Day;
(H) the Saturday prior to any of the holidays listed in this paragraph falling on a Sunday or a Monday, except the Saturday before Christmas Eve when Christmas Eve falls on a Monday;
(I) the Saturday after any of the holidays listed in this paragraph falling on a Friday, except for the Saturday following Thanksgiving Day and the Saturday following Christmas Day when Christmas Day falls on a Friday; and
(J) at other times as deemed necessary by the department's administration, such as in the case of emergency weather conditions.

(5) The MCD shall be open for the issuance of permits from 6:00 a.m. until 6:00 p.m. (Central Standard Time) Monday through Friday, and from 6:00 a.m. until 2:00 p.m. (Central
Standard Time) on Saturdays.

(d) Maximum permit weight limits.

(1) General. An overweight permitted vehicle will not be routed over a load restricted bridge when exceeding the posted capacity of the bridge, unless a special exception is granted by the MCD, based on an analysis of the bridge.

(A) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between each axle in the group to achieve the maximum permit weight for the group.

(B) The maximum permit weight for an axle group with spacings of five or more feet between each axle will be based on an engineering study conducted by the MCD.

(C) A permitted vehicle will be allowed to have air suspension, hydraulic suspension and mechanical suspension axles in a common weight equalizing suspension system for any axle group.

(D) The MCD may permit axle weights greater than those specified in this section, for a specific individual permit request, based on an engineering study of the route and hauling equipment.

(E) An overdimensional load may not exceed the manufacturer's rated tire carrying capacity.
(F) Two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, will be reduced by 2.5% for each foot less than 12 feet.

(2) Maximum axle weight limits. Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

(A) single axle -- 25,000 pounds;

(B) two axle group -- 46,000 pounds;

(C) three axle group -- 60,000 pounds;

(D) four axle group -- 70,000 pounds;

(E) five axle group -- 81,400 pounds;

(F) axle group with six or more axles -- determined by the MCD based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle; or

(G) trunnion axles -- 60,000 pounds if;

(i) the trunnion configuration has two axles;

(ii) there are a total of 16 tires for a trunnion configuration; and
(iii) the trunnion axle as shown in the following diagram is 10 feet in width.

Figure: 43 TAC §28.11(d)(2)(G)(iii)

(3) Weight limits for load restricted roads. Maximum permit weight for an axle or axle group, when traveling on a load restricted road, will be based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:
(A) single axle -- 22,500 pounds;
(B) two axle group -- 41,400 pounds;
(C) three axle group -- 54,000 pounds;
(D) four axle group -- 63,000 pounds;
(E) five axle group -- 73,260 pounds;
(F) axle group with six or more axles -- determined by the MCD based on an engineering study of the equipment, which will include the type of steering system used, the type of axle suspension, the spacing distance between each axle, the number of tires per axle, and the tire size on each axle;
(G) trunnion axles -- 54,000 pounds; and
(H) two or more consecutive axle groups having an axle spacing of less than 12 feet, measured from the center of the last axle of the preceding group to the center of the first axle of the following group will be reduced by 2.5% for each foot less than 12 feet.

(e) Permit issuance.

(1) General. Upon receiving an application, the MCD will review the permit application for the appropriate information and will then determine the most practical route. After a route is selected and a permit number is assigned by the MCD, an applicant requesting a permit by telephone must legibly enter all necessary information on the permit application, including
the approved route and permit number. Permit requests made by methods other than telephone will be returned via facsimile, mail, or electronically.

2 (2) Routing.

(A) A permitted vehicle will be routed over the most practical route available taking into consideration:

(i) the size and weight of the overdimension load in relation to vertical clearances, width restrictions, steep grades, and weak or load restricted bridges;

(ii) the geometrics of the roadway in comparison to the overdimension load;

(iii) sections of highways restricted to specific load sizes and weights due to construction, maintenance, and hazardous conditions;

(iv) traffic conditions, including traffic volume;

(v) route designations by municipalities in accordance with Transportation Code, §623.072;

(vi) load restricted roads; and

(vii) other considerations for the safe transportation of the load.

(B) When a permit applicant desires a route other than the most practical, more than one permit will be required for the trip unless an exception is granted by the MCD.
1 (3) Return movements. A permitted vehicle will be
2 allowed return movement of oversize and overweight hauling
3 equipment to the permitted vehicle's point of origin or the
4 permittee's place of business, and may transport a non-divisible
5 load of legal dimensions on the return trip, provided the
6 transport is completed within the time period stated on the
7 permit.
8
9 (4) Records retention.
10
11 (A) The original permit, a facsimile copy of the
12 permit, or a MCD computer generated permit must be kept in the
13 permitted vehicle until the day after the date the permit
14 expires.
15
16 (B) All telephone requests for permits are recorded and
17 retained for future reference.
18
19 (C) Permit information shall be stored in the
20 department's mainframe computer located in Austin, which shall
21 constitute the official permit record.
22
23 (f) Payment of permit fees, refunds.
24
25 (1) Payment methods. All permit applications must be
26 accompanied by the proper fee, which shall be payable as
27 described in this subsection.
28
29 (A) Credit card. A permit may be purchased with a
30 valid credit card approved by the department. Credit card
payments are subject to a $1 fee per transaction in addition to
the applicable permit fee.

(B) Permit Account Card (PAC)

(i) Application for a PAC should be made directly to
the issuing institution. A PAC must be established and
maintained according to the contract provisions stipulated
between the PAC holder and the financial institution under
contract to the department and the Comptroller of Public
Accounts.

(ii) An applicant purchasing a permit with a PAC is
subject to a $1.00 fee per transaction in addition to the
applicable permit fee.

(C) Checks, money orders, cashier's checks, or cash.
Checks, money orders, cashier's checks, and cash are acceptable
forms of payment for a permit. When ordering a permit by
telephone, facsimile, or electronically, such payments shall be
made at a cash collection office prior to obtaining the permit.
Checks, money orders, and cashier's checks may also accompany
applications made by mail.

(D) Escrow accounts. A permit applicant may establish
an escrow account with the department for the specific purpose
of paying any fee that is related to the issuance of a permit
under this subchapter. An escrow account may also be utilized
to pay fees related to the issuance of a vehicle storage facility license or a motor carrier registration issued under Chapter 18 of this title (relating to Motor Carriers).

(i) A permit applicant who desires to establish an escrow account shall complete and sign an escrow account agreement, and shall return the completed and signed agreement to the department with a check in the minimum amount of $305, which shall be deposited to the appropriate fund by the department with the Comptroller of Public Accounts. In lieu of submitting a check for the initial deposit to an applicant's escrow account, the applicant may transfer funds to the department electronically.

(ii) Upon initial deposit, and each subsequent deposit made by the escrow account holder, $5.00 will be charged as an escrow account administrative fee and shall be deposited in the state highway fund.

(iii) The escrow account holder is responsible for monitoring of the escrow account balance.

(iv) An escrow account holder must submit a written request to the department to terminate the escrow account agreement. Any remaining balance will be returned to the escrow account holder.

(2) Refunds. A permit fee will not be refunded after the
permit number has been issued unless such refund is necessary to
correct an error made by the permit officer.

(g) Amendments. A permit may be amended for the following
reasons:

(1) vehicle breakdown;

(2) changing the intermediate points in an approved
permit route;

(3) extending the expiration date due to conditions which
would cause the move to be delayed;

(4) changing route origin or route destination prior to
the start date as listed on the permit;

(5) changing vehicle size limits prior to the permit
start date as listed on the permit, provided that changing the
vehicle size limit does not necessitate a change in the approved
route; and

(6) correcting any mistake that is made due to permit
officer error.

(h) Requirements for overwidth loads.

(1) An overwidth load must travel in the outside traffic
lane on multi-lane highways, when the width of the load exceeds
12 feet.

(2) Overwidth loads are subject to the escort
requirements of subsection (k) of this section.

Additions underlined

Deletions in [   ]

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(3) A permitted vehicle exceeding 16 feet in width will not be routed on the main lanes of a controlled access highway, unless an exception is granted by the MCD, based on a route and traffic study. The load may be permitted on the frontage roads when available, if the movement will not pose a safety hazard to other highway users.

(4) An applicant requesting a permit to move a load exceeding 20 feet wide will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the overdimension load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by the MCD. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the MCD in writing whether the overdimension load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the MCD with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the MCD.

(i) Requirements for overlength loads.
(1) Overlength loads are subject to the escort requirements stated in subsection (k) of this section.

(2) A single vehicle, such as a motor crane, that has a permanently mounted boom is not considered as having either front or rear overhang as a result of the boom because the boom is an integral part of the vehicle.

(3) When a single vehicle with a permanently attached boom exceeds the maximum legal length of 45 feet, a permit will not be issued if the boom projects more than 25 feet beyond the front bumper of the vehicle, or when the boom projects more than 30 feet beyond the rear bumper of the vehicle, unless an exception is granted by the MCD, based on a route and traffic study.

(4) Maximum permit length for a single vehicle is 75 feet.

(5) A load extending more than 20 feet beyond the front or rearmost portion of the load carrying surface of the permitted vehicle must have a rear escort, unless an exception is granted by the MCD, based on a route and traffic study.

(6) A permit will not be issued for an overdimension load with:

   (A) more than 25 feet front overhang; or

   (B) more than 30 feet rear overhang, unless an
exception is granted by the MCD, based on a route and traffic study.

(7) An applicant requesting a permit to move an overdimension load exceeding 125 feet overall length will be furnished with a proposed route. The applicant must physically inspect the proposed route to determine if the overdimension load can safely negotiate it, unless an exception is granted based on a route and traffic study conducted by the MCD. A permit application and the appropriate fee are required for every route inspection.

(A) The applicant must notify the MCD in writing whether the overdimension load can or cannot safely negotiate the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the MCD with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the MCD.

(8) A permitted vehicle that is not overwidth or overheight, and does not exceed 150 feet overall length, may be moved in a convoy consisting of not more than four overlength permitted vehicles. A permitted vehicle that is not overwidth...
or overheight that exceeds 150 feet, but does not exceed 180
feet overall length, may be moved in a convoy consisting of not
more than two overlength permitted vehicles. Convoys are
subject to the requirements of subsection (k) of this section.
Each permitted vehicle in the convoy must:

(A) be spaced at least 1,000 feet, but not more than
2,000 feet, from any other permitted vehicle in the convoy; and
(B) have a rotating amber beacon or an amber pulsating
light, not less than eight inches in diameter, mounted at the
rear top of the load being transported.

(j) Requirements for overheight loads.

(1) Overheight loads are subject to the escort
requirements stated in subsection (k) of this section.

(2) An applicant requesting a permit to move an
overdimension load with an overall height of 19 feet or greater
will be furnished with a proposed route. The applicant must
physically inspect the proposed route to determine if the
overdimension load can safely negotiate it, unless an exception
is granted based on a route and traffic study conducted by the
MCD. A permit application and the appropriate fee are required
for every route inspection.

(A) The applicant must notify the MCD in writing
whether the overdimension load can or cannot safely negotiate
the proposed route.

(B) If any section of the proposed route is unacceptable, the applicant shall provide the MCD with an alternate route around the unacceptable section.

(C) Once a route is decided upon and a permit issued, the permit may not be amended unless an exception is granted by the MCD.

(k) Escort vehicle requirements. Escort vehicle requirements are provided to facilitate the safe movement of permitted vehicles and to protect the traveling public during the movement of permitted vehicles. A permittee must provide for escort vehicles and law enforcement assistance when required by the MCD. The requirements in this subsection do not apply to the movement of manufactured housing, portable building units, or portable building compatible cargo. Escort vehicle requirements for the movement of manufactured housing are described in §28.14 of this subchapter (relating to Manufactured Housing, and Industrialized Housing and Building Permits). Escort vehicle requirements for the movement of portable building units and portable building compatible cargo are described in §28.15 of this subchapter (relating to Portable Building Unit Permits).

(1) General.
(A) Applicability. The operator of an escort vehicle shall, consistent with applicable law, warn the traveling public when:

(i) a permitted vehicle must travel over the center line of a narrow bridge or roadway;

(ii) a permitted vehicle makes any turning movement that will require the permitted vehicle to travel in the opposing traffic lanes;

(iii) a permitted vehicle reduces speed to cross under a low overhead obstruction or over a bridge;

(iv) a permitted vehicle creates an abnormal and unusual traffic flow pattern; or

(v) in the opinion of MCD, warning is required to ensure the safety of the traveling public or safe movement of the permitted vehicle.

(B) Law enforcement assistance. Law enforcement assistance may be required by the MCD to control traffic when a permitted vehicle is being moved within the corporate limits of a city, or at such times when law enforcement assistance would provide for the safe movement of the permitted vehicle and the traveling public.

(C) Obstructions. It is the responsibility of the permittee to contact utility companies, telephone companies,
television cable companies, or other entities as they may require, when it is necessary to raise or lower any overhead wire, traffic signal, street light, television cable, sign, or other overhead obstruction. The permittee is responsible for providing the appropriate advance notice as required by each entity.

(2) Escort requirements for overwidth loads. Unless an exception is granted by the MCD, based on a route and traffic study, an overwidth load must:

(A) have a front escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a two lane roadway;

(B) have a rear escort vehicle if the width of the load exceeds 14 feet, but does not exceed 16 feet, when traveling on a roadway of four or more lanes; and

(C) have a front and a rear escort vehicle for all roads, when the width of the load exceeds 16 feet.

(3) Escort requirements for overlength loads. Unless an exception is granted by the MCD, based on a route and traffic study, overlength loads must have:

(A) a front escort vehicle when traveling on a two lane roadway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length;
(B) a rear escort vehicle when traveling on a multi-lane highway if the vehicle exceeds 110 feet overall length, but does not exceed 125 feet overall length; and

(C) a front and rear escort vehicle at all times if the permitted vehicle exceeds 125 feet overall length.

(4) Escort requirements for overheight loads. Unless an exception is granted by the MCD, based on a route and traffic study, overheight loads must have:

(A) a front escort vehicle equipped with a height pole to accurately measure overhead obstructions for any permitted vehicle that exceeds 17 feet in height; and

(B) a front and rear escort vehicle for any permitted vehicle exceeding 18 feet in height.

(5) Escort requirements for permitted vehicles exceeding legal limits in more than one dimension. When a load exceeds more than one dimension that requires an escort under this subsection, front and rear escorts will be required unless an exception is granted by the MCD. For example, under this subsection one escort is required for a load exceeding 14 feet in width, and one escort is required for a load exceeding 110 feet in length. In the case of a permitted vehicle that exceeds both 14 feet in width and 110 feet in length, both front and rear escorts are required.
(6) Escort requirements for convoys. Convoys must have a front escort vehicle and a rear escort vehicle on all highways at all times.

(7) General equipment requirements. The following special equipment requirements apply to permitted vehicles and escort vehicles that are not motorcycles.

(A) An escort vehicle must be a single unit with a gross vehicle weight (GVW) of not less than 1,000 pounds nor more than 10,000 pounds.

(B) An escort vehicle must be equipped with two flashing amber lights or one rotating amber beacon of not less than eight inches in diameter, affixed to the roof of the escort vehicle, which must be visible to the front, sides, and rear of the escort vehicle while actively engaged in escort duties for the permitted vehicle.

(C) An escort vehicle must display a sign, on either the roof of the vehicle, or the front and rear of the vehicle, with the words "OVERSIZE LOAD" or "WIDE LOAD." The sign must be visible from the front and rear of the vehicle while escorting the permitted load. The sign must meet the following specifications:

(i) at least five feet, but not more than seven feet in length, and at least 12 inches, but not more than 18 inches
in height;

(ii) the sign must have a yellow background with black lettering;

(iii) letters must be at least eight inches, but not more than 10 inches high with a brush stroke at least 1.41 inches wide; and

(iv) the sign must be visible from the front or rear of the vehicle while escorting the permitted vehicle, and the signs must not be used at any other time.

(D) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(E) Warning flags must be either red or orange fluorescent material, at least 12 inches square, securely mounted on a staff or securely fastened by at least one corner to the widest extremities of an overwidth permitted vehicle, and at the rear of an overlength permitted vehicle or a permitted vehicle with a rear overhang in excess of four feet.

(8) Equipment requirements for motorcycles.

(A) An official law enforcement motorcycle may be used as a primary escort vehicle for a permitted vehicle traveling within the limits of an incorporated city, if the motorcycle is operated by a highway patrol officer, sheriff, or duly
authorized deputy, or municipal police officer.

(B) An escort vehicle must maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(l) Restrictions.

(1) Restrictions pertaining to road conditions. Movement of a permitted vehicle is prohibited when road conditions are hazardous based upon the judgement of the operator and law enforcement officials. Law enforcement officials shall make the final determination regarding whether or not conditions are hazardous. Conditions that should be considered hazardous include, but are not limited to:

(A) visibility of less than 2/10 of one mile; or

(B) weather conditions such as wind, rain, ice, sleet, or snow.

(2) Daylight and night movement restrictions.

(A) A permitted vehicle may be moved only during daylight hours unless:

(i) the permitted vehicle is overweight only;

(ii) the permitted vehicle is traveling on an interstate highway and does not exceed 10 feet wide and 100 feet long, with front and rear overhang that complies with legal standards; or
1 (iii) the permitted vehicle meets the criteria of
2 clause (ii) of this subparagraph and is overweight.
3 (B) An exception may be granted allowing night
4 movement, based on a route and traffic study conducted by the
5 MCD. Escorts may be required when an exception allowing night
6 movement is granted.
7 (3) Weekend and holiday restrictions. The maximum size
8 limits for a permit issued under Transportation Code, Chapter
9 622, Subchapter E and Chapter 623, Subchapters D and E, for
10 holiday movement is 14 feet wide, 16 feet high, and 110 feet
11 long, unless an exception is granted by the MCD based on a route
12 and traffic study. The department may restrict weekend and
13 holiday movement of specific loads based on a determination that
14 the load could pose a hazard for the traveling public due to
15 local road or traffic conditions.
16 (4) Curfew restrictions. The operator of a permitted
17 vehicle must observe the curfew movement restrictions of any
18 city in which the vehicle is operated.
19 (m) General provisions.
20 (1) Multiple commodities.
21 (A) Except as provided in subparagraph (B) of this
22 paragraph, when a permitted commodity creates a single
23 overdimension, two or more commodities may be hauled as one
permit load, provided legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created or made greater by the additional commodities. For example, a permit issued for the movement of a 12 foot wide storage tank may also include a 10 foot wide storage tank loaded behind the 12 foot wide tank provided that legal axle weight and gross weight are not exceeded, and provided an overdimension of width, length or height is not created.

(B) When the transport of more than one commodity in a single load creates or makes greater an illegal dimension of length, width, or height the department may issue an oversize permit for such load subject to each of the following conditions.

(i) The permit applicant or the shipper of the commodities files with the department a written certification by the Texas Department of Economic Development, approved by the Office of the Governor, attesting that issuing the permit will have a significant positive impact on the economy of Texas and that the proposed load of multiple commodities therefore cannot be reasonably dismantled. As used in this clause the term significant positive impact means the creation of not less than 100 new full-time jobs, the preservation of not less than 100
existing full-time jobs, that would otherwise be eliminated if
the permit is not issued, or creates or retains not less than
one percent of the employment base in the affected economic
sector identified in the certification.

(ii) Transport of the commodities does not exceed
legal axle and gross load limits.

(iii) The permit is issued in the same manner and
under the same provisions as would be applicable to the
transport of a single oversize commodity under this section;
provided, however, that the shipper and the permittee also must
indemnify and hold harmless the department, its commissioners,
officers, and employees from any and all liability for damages
or claims of damages including court costs and attorney fees, if
any, which may arise from the transport of an oversized load
under a permit issued pursuant to this subparagraph.

(iv) The shipper and the permittee must file with the
department a certificate of insurance on a form prescribed by
the department, or otherwise acceptable to the department,
naming the department, its commissioners, officers, and
employees as named or additional insurers on its comprehensive
general liability insurance policy for coverage in the amount of
$5 million per occurrence, including court costs and attorney
fees, if any, which may arise from the transport of an oversized
load under a permit issued pursuant to this subparagraph. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas.

(v) The shipper and the permittee must file with the department, in addition to all insurance provided in clause (iv) of this subparagraph, a certificate of insurance on a form prescribed by the department, or otherwise acceptable to the department, naming the department, its commissioners, officers, and employees as insurers under an auto liability insurance policy for the benefit of said insurers in an amount of $5 million per accident. The insurance policy is to be procured from a company licensed to transact insurance business in the State of Texas. If the shipper or the permittee is self-insured with regard to automobile liability then that party must take all steps and perform all acts necessary under the law to indemnify the department, its commissioners, officers, and employees as if the party had contracted for insurance pursuant to, and in the amount set forth in, the preceding sentence and shall agree to so indemnify the department, its commissioners, officers, and employees in a manner acceptable to the department.

(vi) Issuance of the permit is approved by written order of the commission which written order may be, among other things, a certificate of insurance.
things, specific as to duration and routes.

(C) An applicant requesting a permit to haul a dozer and its detached blade may be issued a permit, as a non-dismantable load, if removal of the blade will decrease the overall width of the load, thereby reducing the hazard to the traveling public.

(2) Oversize hauling equipment. A vehicle that exceeds the legal size limits, as set forth by Transportation Code, Chapter 621, Subchapter C, may only haul a load that exceeds legal size limits unless otherwise noted in this subchapter, but such vehicle may haul an overweight load that does not exceed legal size limits, except for the special exception granted in §28.13(b)(4) of this subchapter (relating to Time Permits issued under Transportation Code, Chapter 623, Subchapter D).

(n) Surety bonds.

(1) General. The following conditions apply to surety bonds specified in Transportation Code, §623.075.

(A) The surety bond must:

(i) be made payable to the department with the condition that the applicant will pay the department for any damage caused to the highway by the operation of the equipment covered by the surety bond;

(ii) be effective the day it is issued and expires at

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the end of the state fiscal year, which is August 31st. For example, if you obtain a surety bond on August 30th, it will expire the next day at midnight.

(iii) include the complete mailing address and zip code of the principal;

(iv) be filed with the MCD and have an original signature of the principal;

(v) have a single entity as principal with no other principal names listed; and

(vi) A non-resident agent with a valid Texas insurance license may issue a bond on behalf of an authorized insurance company when in compliance with Insurance Code, Chapter 4056 [Article 21.11].

(B) A certificate of continuation will not be accepted.

(C) The owner of a vehicle bonded under Transportation Code, §622.013, §623.075, and §623.163, that damages the state highway system as a result of the permitted vehicle's movement will be notified by certified mail of the amount of damage and will be given 30 days to submit payment for such damage. Failure to make payment within 30 days will result in the department's placing the claim with the attorney general for collection.

(D) The venue of any suit for a claim against a surety

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bond for the movement of a vehicle permitted under the provisions of Transportation Code, Chapter 623, Subchapter D, will be any court of competent jurisdiction in Travis County.

(2) Permit surety bonds.

(A) A surety bond required under the provisions of Transportation Code, Chapter 623, Subchapter D, must be submitted on the department's standard surety bond form in the amount of $10,000.

(B) A facsimile or electronic copy of the surety bond is acceptable in lieu of the original surety bond, for a period not to exceed 10 days from the date of its receipt in the MCD. If the original surety bond has not arrived in the MCD by the end of the 10 days, the applicant will not be issued a permit until the original surety bond has been received in the MCD.

(C) The surety bond requirement does apply to the delivery of farm equipment to a farm equipment dealer.

(D) A surety bond is required when a dealer or transporter of farm equipment or a manufacturer of farm equipment obtains a permit.

(E) The surety bond requirement does not apply to driving or transporting farm equipment which is being used for agricultural purposes if it is driven or transported by or under the authority of the owner of the equipment.
(F) The surety bond requirement does not apply to a vehicle or equipment operated by a motor carrier registered with the department under Transportation Code, Chapters 643 or 645 as amended.


(a) General. The information in this section applies to single trip permits issued under Transportation Code, Chapter 623, Subchapter D. The department will issue permits under this section in accordance with the requirements of §28.11 of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(b) Overweight loads.

(1) The maximum weight limits for an overweight permit are specified in §28.11(d) of this subchapter.

(2) The applicant shall pay, in addition to the single-trip permit fee of $60 [§30], the applicable highway maintenance fee described in §28.11(c)(3)(B) of this subchapter.

(3) A permit issued for an overdimension load exceeding 200,000 pounds gross weight will have a total permit fee that includes the single-trip permit fee, the highway maintenance fee, and the applicable vehicle supervision fee (VSF) described...
in §28.11(c)(3)(C) of this subchapter.

(A) When a permit is issued under this subsection, and the permittee has additional identical loads that are to be moved over the same route within 30 days of the movement date of the original permit, a reduced vehicle supervision fee of $35 will be charged in lieu of the full vehicle supervision fee.

(B) An applicant for a permit issued under paragraph (8) of this subsection must pay the vehicle supervision fee at the time of permit application in order to offset department costs for analyses performed in advance of issuing the permit. A request for cancellation must be in writing and received by the department prior to collection of the structural information associated with the permit application. If the application is canceled, the department will return the vehicle supervision fee.

(4) An applicant applying for a permit to move a load that is required for the fulfillment of a fixed price public works contract that was entered into prior to the effective date of this section, and administered by federal, state, or local governmental entities, will not be required to pay the vehicle supervision fee, provided the applicant presents proof of the contract to the MCD prior to permit issuance.

(5) When the department has determined that a permit can
be issued for an overdimension load exceeding 200,000 pounds gross weight, all remaining fees are due at the time the permit is issued.

(6) The department will not charge an analysis fee for single and multiple box culverts.

(7) An applicant requesting a permit to move an overdimension load that is between 200,001 and 254,300 pounds total with less than 95 feet overall axle spacing, or is over the maximum permitted weight on any axle or axle group, or is over 254,300 pounds gross weight, or the weight limits described in §28.11(d) of this subchapter, must submit the following items to the MCD to determine if the permit can be issued:

(A) a detailed loading diagram which indicates the number of axles, the number of tires on each axle, the tire size on each axle, the distance between each axle, the tare and gross weight on each axle, the transverse spacing of each set of dual wheels, the distance between each set of dual wheels, the load's center of gravity, the distance from the center of gravity to the center of the front bolster, the distance from the center of gravity to the center of the rear bolster, the distance from the center of the front bolster to the center of the fifth wheel of the truck, the distance from the center of the rear bolster to the center of the closest axle, and any other measurements as
may be needed to verify that the weight of the overdimension
load is adequately distributed among the various axle groups in
the amounts indicated by the loading diagram;

     (B) a map indicating the exact beginning and ending
points relative to a state highway;

     (C) a copy of the signed contract indicating that the
applicant has been retained to transport the shipment;

     (D) the vehicle supervision fee as specified in
paragraph (3) of this subsection; and

     (E) the name, phone number, and fax number of the
applicant's licensed professional engineer who has been approved
by the department.

     (8) The MCD will select a tentative route based on the
physical size of the overdimension load excluding the weight.
The tentative route must be investigated by the applicant, and
the MCD must be advised, in writing, that the route is capable
of accommodating the overdimension load.

     (9) Before the permit is issued, the applicant's licensed
professional engineer shall submit to the Bridge Division a
written certification that includes a detailed structural
analysis of the bridges on the proposed route demonstrating that
the bridges and culverts on the travel route are capable of
sustaining the load. The certification must be approved by the
A permit may be issued for the movement of oversize and overweight self-propelled off road equipment under the following guidelines.

(A) The weight per inch of tire width must not exceed 650 pounds.

(B) The rim diameter of each wheel must be a minimum of 25 inches.

(C) The maximum weight per axle must not exceed 45,000 pounds.

(D) The minimum spacing between axles, measured from center of axle to center of axle, must not be less than 12 feet.

(E) The equipment must be moved empty.

(F) The equipment must be licensed with a machinery license plate or a one trip registration.

(G) The route will not include any controlled access highway, unless an exception is granted based on a route and traffic study conducted by the MCD.

(c) Drill pipe and drill collars hauled in a pipe box.

(1) A vehicle or combination of vehicles may be issued a permit under Transportation Code, §623.071, to haul drill pipe and drill collars in a pipe box.

(2) The maximum width must not exceed nine feet.
(3) The axle weight limits must not exceed the maximum weight limits as specified in §28.11(d)(3) of this subchapter.

(4) The height and length must not exceed the legal limits specified in Transportation Code, Chapter 621, Subchapter C.

(5) The permit will be issued for a single-trip only, and the fee will be $60 [$30]. For loads over 80,000 pounds, a highway maintenance fee will be charged as specified in §28.11(c)(3)(B) of this subchapter.

(6) The permit is valid only for travel on any farm-to-market and ranch-to-market road, and such road will be specified on the permit; however, the permitted vehicle will not be allowed to cross any load restricted bridge when exceeding the posted capacity of the bridge.

(7) Movement will be restricted to daylight hours only.

(d) Houses and storage tanks.

(1) Unless an exception is granted by the MCD, approval for the issuance of a permit for a house or storage tank exceeding 20 feet in width will reside with each district engineer, or the district engineer's designee, along the proposed route.

(2) The issuance of a permit for a house or storage tank exceeding 20 feet in width will be based on:
(A) the amount of inconvenience and hazard to the traveling public, based on traffic volume;
(B) highway geometrics and time of movement; and
(C) the overall width, measured to the nearest inch, of the house, including the eaves or porches.

(3) A storage tank must be empty.

(4) The proposed route must include the beginning and ending points on a state highway.

(5) A permit will not be issued for a newly constructed house or storage tank that exceeds 34 feet overall width unless an exception is granted by the MCD based on a route and traffic study.

(6) A permit will not be issued for the relocation of an existing house or storage tank that exceeds 40 feet overall width, unless an exception is granted by the MCD based on a route and traffic study.

(7) A permit may be issued for the movement of an overweight house provided:

(A) the applicant completes and submits to the MCD a copy of a diagram for moving overweight houses, as shown in Appendix A of this section;
(B) each support beam, parallel to the centerline of the highway, is equipped with an identical number of two axle...
groups which may be placed directly in line and across from the
other corresponding two axle group or may be placed in a
staggered offset arrangement to provide for proper weight
distribution;

(C) that, when a support beam is equipped with two or
more two axle groups, each two axle group is connected to a
common mechanical or hydraulic system to ensure that each two
axle group shares equally in the weight distribution at all
times during the movement; and when the spacing between the two
axle groups, measured from the center of the last axle of the
front group to the center of the first axle of the following
group, is eight feet or more, the front two axle group is
equipped for self-steering in a manner that will guide or direct
the axle group in turning movements without tire scrubbing or
pavement scuffing; and

(D) the department conducts a detailed analysis of each
structure on the proposed route and determines the load can be
moved without damaging the roads and bridges.

(8) The MCD may waive the requirement that a loading
diagram be submitted for the movement of an overweight house if
the total weight of all axle groups located in the same
transverse plane across the house does not exceed the maximum
weight limits specified in §28.11(d)(2) of this subchapter.

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(e) Diagram for moving overweight houses. The following Appendix A indicates the type of diagram that is to be completed by the permit applicant for moving an overweight house. All measurements must be stated to the nearest inch. (Figure: 43 TAC §28.12(e)) (No change.)

APPENDIX A

DIAGRAM FOR MOVING OVERWEIGHT HOUSES


(a) General information. Applications for time permits issued under Transportation Code, Chapter 623, and this section shall be made in accordance with §28.11(c) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures). Permits issued under this section are governed by the requirements of §28.11(e)(1) and (4) of this subchapter.

(b) 30, 60, and 90 day permits. The following conditions apply to time permits issued for overwidth or overlength loads, or overlength vehicles, under this section.

(1) Fees. The fee for a 30-day permit is $120 [$60]; the fee for a 60-day permit is $180 [$90]; and the fee for a 90-day permit is $240 [$120]. All fees are payable in accordance with §28.11(f) of this subchapter. All fees are non-refundable.
(2) Validity of Permit. Time permits are valid for a period of 30, 60, or 90 calendar days, based on the request of the applicant, and will begin with the "movement to begin" date stated on the permit.

(3) Weight/height limits. The permitted vehicle may not exceed the weight or height limits set forth by Transportation Code, Chapter 621, Subchapters B and C.

(4) Registration requirements for permitted vehicles. The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight for the vehicle or vehicle combination as set forth by Transportation Code, §502.151. Time permits will not be issued to a vehicle or vehicle combination that is registered with temporary vehicle registration.

(5) Vehicle indicated on permit. The permit will indicate only the truck or truck-tractor transporting the load; however, any properly registered trailer or semi-trailer is covered by the permit.

(6) Permit routes. The permit will allow travel on a statewide basis.

(7) Restrictions.

(A) The permitted vehicle must not cross a load restricted bridge or load restricted road when exceeding the
posted capacity of the road or bridge.

(B) The permitted vehicle may travel through highway construction or maintenance areas if the dimensions do not exceed the construction restrictions as published by the department.

(C) The permitted vehicle is subject to the restrictions specified in §28.11(l) of this subchapter, and the permittee is responsible for obtaining from the department information concerning current restrictions.

(8) Escort requirements. Permitted vehicles are subject to the escort requirements specified in §28.11(k) of this subchapter.

(9) Transfer of time permits. Time permits issued under this subsection are non-transferable between permittees or vehicles.

(10) Amendments. With the exception of time permits issued under subsection (e)(4) of this section, time permits issued under this subsection will not be amended except in the case of permit officer error.

(c) Overwidth loads. An overwidth time permit may be issued for the movement of any non-divisible load or overwidth trailer, subject to subsection (a) of this section and the following conditions.
(1) Width requirements. A time permit will not be issued for a vehicle with a width exceeding 13 feet.

(2) Weight, height, and length requirements. The permitted vehicle shall not exceed legal weight, height, or length according to Transportation Code, Chapter 621, Subchapters B and C. When multiple items are hauled at the same time, the items may not be loaded in a manner that creates:

(A) a width greater than the width of the widest item being hauled;
(B) a height greater than 14 feet;
(C) an overlength load; or
(D) a gross weight exceeding the legal gross or axle weight of the vehicle hauling the load.

(3) Movement of overwidth trailers. When the permitted vehicle is an overwidth trailer, it will be permitted to:

(A) move empty to and from the job site; and
(B) return from the job site to the permittee's place of business with a legal nondivisible load.

(4) Use in conjunction with other permits. An overwidth time permit may be used in conjunction with an overlength time permit.

(d) Overlength loads. An overlength time permit may be issued for the transportation of overlength loads or the
movement of an overlength self-propelled vehicle, subject to subsection (a) of this section and the following conditions.

(1) Length requirements. The maximum overall length for the permitted vehicle may not exceed 110 feet.

(2) Weight, height and width requirements. The permitted vehicle may not exceed legal weight, height, or width according to Transportation Code, Chapter 621, Subchapters B and C.

(A) The maximum length for a single permitted vehicle may not exceed 75 feet.

(B) A permit will not be issued when the load has more than 25 feet front overhang, or more than 30 feet rear overhang, unless an exception is granted by the department's Motor Carrier Division, based on a route and traffic study.

(3) Use in conjunction with other permits. An overlength time permit may be used in conjunction with an overwidth time permit.

(4) Emergency movement. A permitted vehicle transporting utility poles will be allowed emergency night movement for restoring electrical utility service, provided the permitted vehicle is accompanied by a rear escort vehicle.

(e) Annual permits.

(1) General information. All permits issued under this subsection are subject to the following conditions.
(A) Fees for permits issued under this subsection are payable as described in §28.11(f) of this subchapter.

(B) Permits issued under this subsection are not transferable.

(C) Vehicles permitted under this subsection shall be operated according to the restrictions described in §28.11(l) of this subchapter. The permittee is responsible for obtaining information concerning current restrictions from the department.

(D) Vehicles permitted under this subsection may not travel over a load restricted bridge or load restricted road when exceeding the posted capacity of the road or bridge.

(E) Vehicles permitted under this subsection may travel through any highway construction or maintenance area provided the dimensions do not exceed the construction restrictions as published by the department.

(F) With the exception of permits issued under paragraph (5) of this subsection, vehicles permitted under this subsection shall be operated according to the escort requirements described in §28.11(k) of this subchapter.

(2) Implements of husbandry. An annual permit may be issued for an implement of husbandry being moved by a dealer in those implements, and for harvesting equipment being moved as part of an agricultural operation. Permits issued under this
paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for a permit issued under this paragraph is $270 [+$135], plus the highway maintenance fee specified in Transportation Code, §623.077 and §28.11(c)(3)(B) of this subchapter.

(B) The time period will be for one year and will start with the "movement to begin" date stated on the permit.

(C) The maximum width may not exceed 16 feet; maximum height may not exceed 16 feet; maximum length may not exceed 110 feet; and maximum weight may not exceed the limits stated in §28.11(d) of this subchapter.

(D) The permitted vehicle must travel in the outside traffic lane on multi-lane highways, when the width of the load exceeds 12 feet.

(E) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight for the vehicle or vehicle combination, as set forth by Transportation Code, Chapter 621.

(3) Water well drilling machinery. The department may issue annual permits under Transportation Code, §623.071, for water well drilling machinery and equipment that cannot be reasonably dismantled. Permits issued under this paragraph are
subject to the conditions described in paragraph (1) of this
subsection.

(A) The fee for a permit issued under this paragraph is
$270, plus the highway maintenance fee specified in
Transportation Code, §623.077, and §28.11(c)(3)(B) of this
subchapter, for an overweight load.

(B) A water well drilling machinery permit is valid for
one year from the "movement to begin" date stated on the permit.

(C) The maximum dimensions may not exceed 16 feet wide,
14 feet 6 inches high, 110 feet long, and maximum weight may not
exceed the limits stated in §28.11(d) of this subchapter.

(D) The permitted vehicle must be registered in
accordance with Transportation Code, Chapter 502, for the
maximum weight of the vehicle, as set forth by Transportation
Code, Chapter 621.

(E) A permit issued under this section authorizes a
permitted vehicle to operate only on the state highway system.

(4) Envelope vehicle permits.

(A) The department may issue an annual permit under
Transportation Code, §623.071(c), to a specific vehicle, for the
movement of superheavy or oversize equipment that cannot
reasonably be dismantled. Unless otherwise noted, permits
issued under this paragraph are subject to the conditions
described in paragraph (1) of this subsection.

(i) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not exceed:

(I) 12 feet in width;

(II) 14 feet in height;

(III) 110 feet in length; or

(IV) 120,000 pounds gross weight.

(ii) Superheavy or oversize equipment operating under an annual envelope vehicle permit may not transport a load that has more than 25 feet front overhang, or more than 30 feet rear overhang.

(iii) The fee for an annual envelope vehicle permit is $4,000 [$2,000], and is non-refundable.

(iv) The time period will be for one year and will start with the "movement to begin" date stated on the permit.

(v) This permit authorizes operation of the permitted vehicle only on the state highway system.

(vi) The permitted vehicle must comply with §28.11(d)(2) and (3) of this subchapter.

(vii) The permitted vehicle or vehicle combination must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.
(viii) A permit issued under this paragraph is non-transferable between permittees.

(ix) A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

   (I) the permitted vehicle is destroyed or otherwise becomes permanently inoperable, to an extent that it will no longer be utilized, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been surrendered to the department; or

   (II) the certificate of title to the permitted vehicle is transferred to someone other than the permittee, and the permittee presents proof that the negotiable certificate of title or other qualifying documentation has been transferred from the permittee.

(x) A single trip permit, as described in §28.12 of this subchapter (relating to Single Trip Permits Issued Under Transportation Code, Chapter 623, Subchapter D), may be used in conjunction with an annual permit issued under this paragraph for the movement of vehicles or loads exceeding the height or width limits established in subparagraph (A) of this paragraph. The department will indicate the annual permit number on any single trip permit to be used in conjunction with a permit.
issued under this paragraph, and permittees will be assessed a fee of $60 [$30] for the single trip permit.

(B) The department may issue an annual permit under Transportation Code, §623.071(d), to a specific motor carrier, for the movement of superheavy or oversize equipment that cannot reasonably be dismantled. Unless otherwise noted, permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection and subparagraph (A)(i)-(viii) of this paragraph. A permit issued under this paragraph may be transferred from one vehicle to another vehicle in the permittee's fleet provided:

(i) that no more than one vehicle is operated at a time; and

(ii) the original certified permit is carried in the vehicle that is being operated under the terms of the permit.

(C) An annual envelope permit issued under subparagraph (B) of this paragraph will be sent to the permittee via registered mail, or at the permittee's request and expense overnight delivery service. This permit may not be duplicated. This permit will be replaced only if:

(i) the permittee did not receive the original permit within seven business days after its date of issuance;

(ii) a request for replacement is submitted to the
department within 10 business days after the original permit's
date of issuance; and

(iii) the request for replacement is accompanied by a
notarized statement signed by a principle or officer of the
permittee acknowledging that the permittee understands the
permit may not be duplicated and that if the original permit is
located, the permittee must return either the original or
replacement permit to the department.

(D) A request for replacement of a permit issued under
subparagraph (B) of this paragraph will be denied if the
department can verify that the permittee received the original.

(E) Lost, misplaced, damaged, destroyed, or otherwise
unusable permits will not be replaced. A new permit will be
required.

(5) Annual manufactured housing permit. The department
may issue an annual permit for the transportation of new
manufactured homes from a manufacturing facility to a temporary
storage location, not to exceed 20 miles from the point of
manufacture, in accordance with Transportation Code, §623.094.

Permits issued under this paragraph are subject to the
requirements of paragraph (1), subparagraphs (A), (B), (C), (D),
(E), and (G), of this subsection.

(A) A permit shall contain the name of the company or
person authorized to be issued permits by Transportation Code, Chapter 623, Subchapter E.

(B) The fee for a permit issued under this paragraph is $1,500. Fees are non-refundable, and shall be paid in accordance with §28.11(f) of this subchapter.

(C) The time period will be for one year from the "movement to begin" date stated on the permit.

(D) A copy of the permit must be carried in the vehicle transporting a manufactured home.

(E) The permitted vehicle must travel in the outside traffic lane on multi-lane highways when the width of the load exceeds 12 feet.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502.

(G) Authorized movement for a vehicle permitted under this section shall be valid during daylight hours only as defined by Transportation Code, §541.401.

(H) The permitted vehicle must be operated in accordance with the escort requirements described in §28.14(f) of this subchapter (relating to Manufactured Housing, and Industrialized Housing and Building Permits).

(I) Permits issued under this section are non-transferable between permittees.
(6) Power line poles. An annual permit will be issued under Transportation Code, Chapter 622, Subchapter E, for the movement of poles required for the maintenance of electric power transmission and distribution lines. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The fee for the permit is $120.

(B) The time period will be for one year and will start with the "movement to begin" date stated on the permit.

(C) The maximum length of the permitted vehicle may not exceed 75 feet.

(D) The width, height and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.

(E) Vehicles permitted under this paragraph may not travel over a load restricted bridge or load zoned road when exceeding posted limits.

(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight as set forth by Transportation Code, Chapter 621.

(G) Movement will be between the hours of sunrise and sunset; however, the limitation on hours of operation does not apply to a vehicle being operated to prevent interruption or
impairment of electric service, or to restore electric service
that has been interrupted. When operated at night, a vehicle
permitted under this subsection must be accompanied by a rear
escort.

(H) The permitted vehicle may not travel during
hazardous road conditions as stated in §28.11(1)(A) and (B)
except to prevent interruption or impairment of electric
service, or to restore electric service that has been
interrupted.

(I) The speed of the permitted vehicle may not exceed
50 miles per hour.

(J) The permitted vehicle must display on the extreme
end of the load:

(i) two red lamps visible at a distance of at least
500 feet from the rear;

(ii) two red reflectors that indicate the maximum
width and are visible, when light is insufficient or atmospheric
conditions are unfavorable, at all distances from 100 to 600
feet from the rear when directly in front of lawful lower beams
of headlamps; and

(iii) two red lamps, one on each side, that indicate
the maximum overhang, and are visible at a distance of at least
500 feet from the side of the vehicle.

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(7) Cylindrically shaped bales of hay. An annual permit may be issued under Transportation Code, §621.017, for the movement of vehicles transporting cylindrically shaped bales of hay. Permits issued under this paragraph are subject to the conditions described in paragraph (1) of this subsection.

(A) The permit fee is $10.
(B) The time period will be for one year, and will start with the "movement to begin" date stated on the permit.
(C) The maximum width of the permitted vehicle may not exceed 12 feet.
(D) The length, height, and gross weight of the permitted vehicle may not exceed the limits set forth by Transportation Code, Chapter 621.
(E) Movement is restricted to daylight hours only.
(F) The permitted vehicle must be registered in accordance with Transportation Code, Chapter 502, for maximum weight, as set forth by Transportation Code, Chapter 621.

(a) General information.
(1) A manufactured home that exceeds size limits for motor vehicles as defined by Transportation Code, Chapter 621,
Subchapters B and C, must obtain a permit from the department.

(2) Pursuant to Transportation Code, Chapter 623, Subchapter E, a permit may be issued to persons registered as manufacturers, installers, or retailers with the Texas Department of Housing and Community Affairs or motor carriers registered with the department under Transportation Code, Chapter 643.

(3) The department may issue a permit to the owner of a manufactured home provided that:

(A) the same owner is named on the title of the manufactured home and towing vehicle;

(B) or the owner presents a lease showing that the owner of the manufactured home is the lessee of the towing vehicle.

(b) Application for permit.

(1) The applicant must complete the application and shall include the manufactured home's HUD label number, Texas seal number, or the complete identification number or serial number of the manufactured home, and the overall width, height, and length of the home and the towing vehicle in combination. If the manufactured home is being moved to or from a site in this state where it has been, or will be, occupied as a dwelling, the permit must also show the name of the owner of the home, the

Additions underlined  Exhibit C
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location from which the home is being moved, and the location to which the home is being delivered.

(2) A permit application for industrialized housing or industrialized building that does not meet the definition in Occupations Code, §1202.002 and §1202.003 shall be submitted in accordance with §28.11(c) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Permit issuance.

(1) Permit issuance is subject to the requirements of §28.11(e)(4) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(2) Amendments can only be made to change intermediate points between the origination and destination points listed on the permit.

(d) Payment of permit fee. The cost of the permit is $40 [ $20], payable in accordance with §28.11(f) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(e) Permit provisions and conditions.

(1) The overall combined length of the manufactured home and the towing vehicle includes the length of the hitch or towing device.

(2) The height is measured from the roadbed to the
highest elevation of the manufactured home.

(3) The width of a manufactured home includes any roof or eaves extension or overhang on either side.

(4) A permit will be issued for a single continuous movement not to exceed five days.

(5) Movement must be made during daylight hours only and may be made on any day except New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(6) The department may limit the hours for travel on certain routes because of heavy traffic conditions.

(7) The department will publish any limitations on movements during the national holidays listed in this subsection, or any limitations during certain hours of heavy traffic conditions, and will make such publications available to the public prior to the limitations becoming effective.

(8) The permit will contain the route for the transportation of the manufactured home from the point of origin to the point of destination.

(9) The route for the transportation must be the most practical route as described in §28.11(e) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures), except where construction is in progress and the
permitted vehicle's dimensions exceed the construction
restrictions as published by the department, or where bridge or
overpass width or height would create a safety hazard.

(10) The department will publish annually a map or list
of all bridges or overpasses which, due to height or width,
require an escort vehicle to stop oncoming traffic while the
manufactured home crosses the bridge or overpass.

(11) A permittee may not transport a manufactured home
with a void permit; a new permit must be obtained.

(f) Escort requirements.

(1) A manufactured home exceeding 12 feet in width must
have a rotating amber beacon of not less than eight inches in
diameter mounted somewhere on the roof at the rear of the
manufactured home, or may have two five-inch flashing amber
lights mounted approximately six feet from ground level at the
rear corners of the manufactured home. The towing vehicle must
have one rotating amber beacon of not less than eight inches in
diameter mounted on top of the cab. These beacons or flashing
lights must be operational and luminiferous during any permitted
move over the highways, roads, and streets of this state.

(2) A manufactured home with a width exceeding 16 feet
but not exceeding 18 feet must have a front escort vehicle on
two-lane roadways and a rear escort vehicle on roadways of four
or more lanes.

(3) A manufactured home exceeding 18 feet in width must have a front and a rear escort on all roadways at all times.

(4) The escort vehicle must:

(A) have one red 16 inch square flag mounted on each of the four corners of the vehicle;

(B) have a sign mounted on the front and rear of the vehicle displaying the words "WIDE LOAD" in black letters at least eight inches high with a brush stroke at least 1.41 inches wide against a yellow background;

(C) have an amber light or lights, visible from both front and rear, mounted on top of the vehicle in one of the following configurations:

   (i) two simultaneously flashing lights or

   (ii) one rotating beacon of not less than eight inches in diameter; and

(D) maintain two-way communications with the permitted vehicle and other escort vehicles involved with the movement of the permitted vehicle.

(5) Two transportable sections of a multi-section manufactured home, or two single section manufactured homes, when towed together in convoy, may be considered one home for purposes of the escort vehicle requirements, provided the
distance between the two units does not exceed 1,000 feet.

(6) An escort vehicle must comply with the requirements in §28.11(k)(1) and §28.11(k)(7)(A) of this subchapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

§28.15. Portable Building Unit Permits.

(a) General information.

(1) A vehicle or vehicle combination transporting one or more portable building units and portable building compatible cargo that exceed legal length or width limits set forth by Transportation Code, Chapter 621, Subchapters B and C, may obtain a permit under Transportation Code, Chapter 623, Subchapter F.

(2) In addition to the fee required by subsection (d)(1), the department shall collect an amount equal to any fee that would apply to the movement of cargo exceeding any applicable width limits, if such cargo were moved in a manner not governed by this section.

(b) Application for permit. Applications shall be made in accordance with §28.11(c) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures).

(c) Permit issuance. Permit issuance is subject to the
requirements of §28.11(b)(1)(A) and (B) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures), with the exception of §28.11(k) of this title, concerning escort requirements.

(d) Payment of permit fee. The cost of the permit is $15 [$7.50], with all fees payable in accordance with §28.11(f) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures). All fees are non-refundable.

(e) Permit provisions and conditions.

(1) A portable building unit may only be issued a single-trip permit.

(2) Portable building units may be loaded end-to-end to create an overlength permit load, provided the overall length does not exceed 80 feet.

(3) Portable building units must not be loaded side-by-side to create an overwidth load, or loaded one on top of another to create an overheight load.

(4) Portable building units must be loaded in a manner that will create the narrowest width for permit purposes and provide for greater safety to the traveling public.

(5) The permit will be issued for a single continuous movement from the origin to the destination for an amount of time necessary to make the move, not to exceed 10 consecutive days.
(6) Movement of the permitted vehicle must be made during daylight hours only.

(7) A permittee may not transport portable building units or portable building compatible cargo with a void permit; a new permit must be obtained.

(f) Escort requirements.

(1) A portable building unit or portable building compatible cargo with a width exceeding 16 feet but not exceeding 18 feet must have a front escort vehicle on two-lane roadways and a rear escort vehicle on roadways of four or more lanes.

(2) A portable building unit or portable building compatible cargo exceeding 18 feet in width must have a front and a rear escort on all roadways at all times.

(3) The escort vehicle must:

(A) have one red 16 inch square flag mounted on each of the four corners of the vehicle;

(B) have a sign mounted on the front and rear of the vehicle displaying the words "WIDE LOAD" in black letters at least eight inches high with a brush stroke at least 1.41 inches wide against a yellow background;

(C) have an amber light or lights, visible from both
front and rear, mounted on top of the vehicle and which must be
two simultaneously flashing lights or one rotating beacon of not
less than eight inches in diameter; and

(D) maintain two-way communications with the permitted
vehicle and other escort vehicles involved with the movement of
the permitted vehicle.

(4) An escort vehicle must comply with the requirements
in §28.11(k)(1) and §28.11(k)(7)(A) of this title (relating to
General Oversize/Overweight Permit Requirements and Procedures).


(a) The movement of an overdimension load on vehicles registered to the military or governmental agencies
must obtain a permit from the MCD. [and there will not be a charge for the routing.] Military or government
applicants may apply for any applicable permit type issued by
the department and shall follow all permit restrictions and
requirements for the permit issued.

(b) The overdimension load must be moved on military or
governmental vehicles that are licensed with either federal or
state exempt license plates.

(c) The size and weight measurements of the overdimension
load must not exceed the permit size and weight
limits stated in §28.11(d) of this subchapter (relating to Maximum permit weight limits), and §28.12(b) of this subchapter (relating to Overweight loads), unless specific permission is granted by the MCD upon request of an authorized representative of the military or a governmental agency.

(d) A surety bond is not required for an overdimension governmental or military load hauled on governmental and military vehicles.

(e) The movement of an overdimension military or governmental load transported on vehicles not licensed with federal or state exempt license plates must obtain a permit, and must comply with §28.11 of this title (relating to Permit Issuance Requirements and Procedures), and §28.12 of this title (relating to Single-Trip Permits Issued under Transportation Code, Chapter 62, Subchapter D).

(f) A military or government entity is not required to pay the fee for a permit issued under this chapter if the load is transported only on vehicles that display federal or state exempt license plates.

(a) Purpose. In accordance with Transportation Code, §623.011, the department is authorized under certain conditions to issue an annual permit for the operation of a vehicle within certain tolerances above legal axle and gross weight limits, as provided in Transportation Code, Chapter 621. The sections under this subchapter set forth the requirements and procedures to be used in issuing an annual permit.

(b) Scope. A permit may be issued to an applicant under this subchapter to operate a vehicle that exceeds the legal axle weight by a tolerance of 10% and the legal gross weight by a tolerance of 5.0% on any county road and on any road in the state highway system provided the vehicle:

(1) is not operated on the national system of interstate and defense highways at a weight greater than authorized by federal law; and

(2) is not operated on a bridge for which the maximum weight and load limit has been established and posted under Transportation Code, §621.102 or §621.301, if the gross weight of the vehicle and load or the axles and wheel loads are greater than the established and posted limits, unless the bridge...
provides the only public vehicular access to or from the
permittee's origin or destination.

(c) Eligibility. To be eligible for a permit under this
section, a vehicle must be registered under Transportation Code,
Chapter 502, for the maximum gross weight applicable to the
vehicle under Transportation Code, §621.101, not to exceed
80,000 pounds in total gross weight.

(d) Security.

(1) Before a permit may be issued under this section, an
applicant, other than an applicant who intends to operate a
vehicle that is loaded with timber or pulp wood, wood chips,
cotton, or agricultural products in their natural state, must
have on file with the department one of the following forms of
security in the amount of $15,000, conditioned that payment will
be made to the department for any damages to the state highway
system and to any county for damages to a road or bridge of such
county caused by the operation of any vehicle for which a permit
is issued under this section and which has an axle weight or
gross weight that exceeds the weights authorized in
Transportation Code, Chapter 621:

(A) an irrevocable letter of credit issued by a
financial institution which deposits are guaranteed by the

NOTE: Additions underlined Exhibit D
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(B) a blanket surety bond.

(2) The department may reject a bond which it determines will not provide the intended security.

(3) If payment is made by the issuer in respect of the bond or letter of credit and the applicant does not file with the department a replacement bond or letter of credit in the full amount of $15,000, or a notification from the issuer of the existing bond or letter of credit that the existing bond or letter of credit has been restored to the full $15,000, within 30 days after the date of such payment, all permits held by the applicant under this section shall automatically expire on the 31st day after such date.

(e) Application for permit.

(1) A person who desires to permit a vehicle as provided in this section, must submit an application to the MCD.

(2) The application shall be in a form prescribed by the MCD and at a minimum will require the following:

(A) name and address of the applicant;

(B) name of contact person and telephone number;

(C) vehicle information;

(D) an indication as to whether the commodities to be transported will be agricultural or non-agricultural; and

(E) a list of counties in which the vehicle will
1 operate.

2 (3) The application shall be accompanied by:

3 (A) a base fee of $75 and an administration fee of $5.00;

4 (B) an original bond or letter of credit as required in subsection (d) of this section, unless previously filed by the applicant; and

5 (C) an additional fee based on the following schedule:

Figure: 43 TAC §28.30(e)(3)(C)

<table>
<thead>
<tr>
<th>Number of counties on permit application</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-5</td>
<td>$175</td>
</tr>
<tr>
<td>6-20 [1-20]</td>
<td>$250 [$125]</td>
</tr>
<tr>
<td>21-40</td>
<td>$450 [$345]</td>
</tr>
<tr>
<td>41-60</td>
<td>$625 [$565]</td>
</tr>
<tr>
<td>61-80</td>
<td>$800 [$785]</td>
</tr>
<tr>
<td>81-100</td>
<td>$900 [$1,005]</td>
</tr>
<tr>
<td>101-254</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

6 (4) Payment of fees. Fees for permits issued under this subchapter are payable as required by §28.11(f) of this chapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(f) Issuance of permit and windshield sticker.
(1) A permit and a windshield sticker will be issued on
the approval of the application and each will be mailed to the
applicant at the address contained in the application.

(2) The permit shall be carried in the vehicle for which
the permit is issued at all times.

(3) The windshield sticker shall be affixed to the inside
of the windshield of the vehicle within six inches above the
vehicle's inspection sticker in a manner that will not obstruct
the vision of the driver. Any attempt to remove the sticker
from the windshield will render the sticker void, and will
require a new permit and sticker. The windshield sticker must
be removed from the vehicle upon expiration of the permit.

(4) A replacement sticker for a lost, stolen, or
mutilated windshield sticker may be issued, provided that the
permittee submits a request on a form approved by the department
which shall include a statement, signed by the permittee,
affirming that the sticker was lost, stolen, or mutilated. The
replacement sticker shall only be valid for the permitted
vehicle. The cost for a replacement sticker is $3.00.

(5) Within 14 days of issuance of the permit, the
department shall notify the county clerk of each county
indicated on the application, and such notification shall
contain or be accompanied by the following minimum information:
(A) the name and address of the person for whom a permit is issued; and

(B) the vehicle identification number, license plate number, and registration state of the vehicle, and the permit number.

(g) Issuance of a credit. Upon written application on a form prescribed by the MCD, a prorated credit for the remaining time on the permit may be issued for a vehicle that is destroyed or otherwise becomes permanently inoperable to an extent that it will no longer be utilized. The date for computing a credit will be based on the date of receipt of the credit request. The fee for a credit will be $25, and will be issued on condition that the applicant provides to the department:

(1) the original permit; or

(2) if the original permit no longer exists, written evidence of the destruction or permanent incapacity from the insurance carrier of the vehicle.

(h) Use of credit. A credit issued under subsection (g) of this section may be used only towards the payment of permit fees under this section.

(i) Exceptions. A vehicle carrying timber, wood chips, wood pulp, cotton, or other agricultural products in their natural state, may be allowed to exceed the maximum allowable...
axle weight by 12% without a permit; however, if such vehicle exceeds the maximum allowable gross weight by an amount of up to 5.0%, a permit issued in accordance with this section will be required.

(j) Semi-trailer registration. Transportation Code, §502.167, provides that the owner of a semi-trailer registered with either a Texas token trailer license plate or a Texas apportioned trailer license plate operated in combination with a permitted vehicle, shall pay a $15 fee to the county where the semi-trailer is registered.

(k) Lapse or termination of permit. A permit shall lapse or terminate and the windshield sticker must be removed from the vehicle:

(1) when the lease of the vehicle expires;

(2) on the sale of the vehicle for which the permit was issued;

(3) on the sale, takeover, or dissolution of the firm, partnership, or corporation to which a permit was issued; or

(4) if the applicant does not replenish the letter of credit or bond as required in subsection (d) of this section.

(l) Void permit. A permit will be voided when the department is informed by law enforcement that a citation has been issued for a violation of a permit's terms and conditions.
(m) Movement with void permit. A permittee may not operate a permitted vehicle with a void permit; a new permit must be obtained.
SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR VEHICLES

§28.64. Annual Permits.

(a) General information. Permits issued under this section are subject to the requirements of §28.61 of this title (relating to General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles).

(1) A crane permitted under this section must not exceed:
   (A) the weight limits established in §28.11(d)(1), (2) and (3) of this title (relating to General Oversize/Overweight Permit Requirements and Procedures);
   (B) a gross weight of 120,000 pounds;
   (C) legal length and height limits as specified in Transportation Code, §621.203 and §621.207; and
   (D) 10 feet in width.

(2) A permit issued under this section may not be amended.

(3) A crane permitted under this section must not cross a load restricted bridge or a load restricted road when exceeding the posted capacity of such.

(4) A crane permitted under this section may travel at night with front and rear escort vehicles.

(5) The fee for an annual permit issued under this
section is $100 [50].

(b) Permit application and issuance.

(1) Initial permit application. An applicant for an annual permit under this section must submit a completed application and the appropriate fees by telephone, facsimile, mail, or Internet. The application shall include, at a minimum, the following information:

(A) name and address of applicant;

(B) make and model of the crane;

(C) vehicle identification number;

(D) license plate number;

(E) size and weight dimensions; and

(F) any other information required by law.

(2) Permit issuance. Upon receipt of the application and the appropriate permit fee, the MCD will verify the application information, provide the permit to the applicant if requested, and also provide a renewal application form to the applicant.
SUBCHAPTER G. PORT OF BROWNSVILLE PORT AUTHORITY PERMITS

§28.91. Responsibilities.

(a) Surety bond. The department may require the Port of Brownsville to post a surety bond in the amount of $500,000 for the purpose of reimbursing the department for actual maintenance costs of State Highway 48/State Highway 4 and U.S. Highway 77/U.S. Highway 83 in the event that sufficient revenue is not collected from permits issued under this subchapter.

(b) Verification of permits. All permits issued by the Port of Brownsville shall be carried in the permitted vehicle. The Port of Brownsville shall provide access or a phone number for verification of permit authenticity by law enforcement and department personnel.

(c) Training. The Port of Brownsville shall secure any training necessary for personnel to issue permits under this subchapter. The department may provide assistance with training upon request by the Port of Brownsville.

(d) Accounting. The department shall develop accounting procedures related to permits issued under this subchapter which the Port of Brownsville must comply with for the purpose of revenue collections and any payment made to the department under subsection (h) of this section.
(e) Audits. The department may conduct audits annually [semi-annually] or upon direction by the executive director of all Port of Brownsville permit issuance activities. In order to insure compliance, audits will at a minimum include a review of all permits issued, financial transaction records related to permit issuance, review of vehicle scale weight tickets and monitoring of personnel issuing permits under this subchapter.

(f) Revocation of authority to issue permits. If the department determines as a result of an audit that the Port of Brownsville is not complying with this subchapter, the executive director will issue a notice to the Port of Brownsville allowing 30 days to correct any non-compliance issue. If after 30 days it is determined that the Port of Brownsville is not in compliance, then the executive director may revoke the Port of Brownsville’s authority to issue permits.

(1) Upon notification that its authority to issue permits under this subchapter has been revoked, the Port of Brownsville may appeal the revocation to the commission in writing.

(2) In cases where a revocation is being appealed, the Port of Brownsville’s authority to issue permits under this subchapter shall remain in effect until the commission makes a final decision regarding the appeal.

(3) Upon revocation of authority to issue permits,
termination of the maintenance contract, or expiration of this subchapter, all permit fees collected by the port, less allowable administrative costs [with the exception of administrative costs already expended], shall be paid to the department.

(g) Fees. Fees collected under this subchapter shall be used solely to provide funds for the payments provided for under Transportation Code, §623.213, less administrative costs.

(1) The permit fee shall not exceed $80 per trip. The Port of Brownsville may retain up to 15% of such permit fees for administrative costs, and the balance of the permit fees shall be deposited in the state highway fund to be used for maintenance of State Highway 48/State Highway 4 and U.S. Highway 77/U.S. Highway 83.

(2) The Port of Brownsville may issue a permit and collect a fee for a permit issued under this subchapter for any vehicle or vehicle combination [any load] exceeding vehicle size or weight as specified by Transportation Code, Chapter 621, Subchapters B and C, originating at:

(A) the Gateway International Bridge traveling only on State Highway 48/State Highway 4 to the Port of Brownsville; or

(B) the Port of Brownsville traveling on State Highway
48/State Highway 4 to the Gateway International Bridge; [→]

[(3) The Port of Brownsville may also issue a permit and collect a fee for any load exceeding vehicle size or weight as specified by Transportation Code, Chapter 621, Subchapters B and C, originating at]

(C) the Veterans International Bridge at Los Tomates, traveling on U.S. Highway 77/U.S. Highway 83 and State Highway 48/State Highway 4 to the entrance to Port of Brownsville; or

(D) [originating at] the Port of Brownsville, traveling on State Highway 48/State Highway 4 and U.S. Highway 77/U.S. Highway 83 to the Veterans International Bridge at Los Tomates.

(h) Maintenance Contract. The Port of Brownsville shall enter into a maintenance contract with the department for the maintenance of State Highway 48/State Highway 4 between the Gateway International Bridge and the Port of Brownsville and the maintenance of U.S. Highway 77/U.S. Highway 83 and State Highway 48/State Highway 4 between the Veterans International Bridge at Los Tomates and the Port of Brownsville.

(1) [The maintenance contract shall provide for a system of payments from the Port of Brownsville to the department for all maintenance costs expended by the department to maintain State Highway 48/State Highway 4 and U.S. Highway 77/U.S. Highway 83 to the current level of service or pavement.
1 Maintenance shall include, but is not limited to, routine maintenance, preventive maintenance, and total reconstruction of the roadway and bridge structures as determined by the department to maintain the current level of service.

2 (2) The Port of Brownsville may make direct restitution to the department for actual maintenance costs in lieu of the department filing against the surety bond described in subsection (a) of this section, in the event that sufficient revenue is not collected.

3 (i) Reporting. Brownsville Port Authority shall provide monthly and annual reports to the department’s Finance Division regarding all permits issued and all fees collected during the period covered by the report. The report must be in a format approved by the department.


(a) Permit application. Application for a permit issued under this subchapter shall be in a form approved by the department, and shall at a minimum include:

1 (1) the name of the applicant;

2 (2) date of issuance;

3 (3) signature of the director of the Port of Brownsville;
(4) a statement of the kind of cargo being transported;
(5) the maximum weight and dimensions of the proposed
vehicle combination, including number of tires on each axle,
tire size for each axle, distance between each axle, measured
from center of axle to center of axle, and the specific weight
of each individual axle when loaded;
(6) the kind and weight of each commodity to be
transported, not to exceed loaded dimensions of 12’ wide, 15’6”
high, 110’ long or 125,000 pounds gross weight;
(7) a statement of any condition on which the permit is
issued;
(8) a statement that the cargo shall be transported over
the most direct route using State Highway 48/State Highway 4
between the Gateway International Bridge and the Port of
Brownsville, or using U.S. Highway 77/U.S. Highway 83 and State
Highway 48/State Highway 4 between the Veterans International
Bridge at Los Tomates and the Port of Brownsville;
[(9) the name of the driver of the vehicle in which the
cargo is to be transported,]
[(9) [(10)] the location where the cargo was loaded; and
(10) the date or dates on which movement authorized by
the permit is allowed.
[(11) the name of the specific Port of Brownsville]
(b) Permit issuance.

(1) General.

(A) The original permit must be carried in the vehicle for which it is issued.

(B) A permit is void when an applicant:

(i) gives false or incorrect information;

(ii) does not comply with the restrictions or conditions stated in the permit; or

(iii) changes or alters the information on the permit.

(C) A permittee may not transport an overdimension or overweight load with a voided permit.

(2) Payment of permit fee. The Port of Brownsville may determine acceptable methods of payment. All fees transmitted to the department must be in U.S. currency.

[(3) Reporting. Brownsville Port Authority shall provide monthly and annual reports to the department’s Finance Division regarding all permits issued and all fees collected. The report must be in a format approved by the department.]

(c) Maximum permit weight limits.

(1) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between
each axle in the group to achieve the maximum permit weight for the group.

(2) Two or more consecutive axle groups must have an axle spacing of 12 feet or greater, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, in order for each group to be permitted for maximum permit weight.

(3) Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount:

- (A) single axle -- 25,000 pounds;
- (B) two axle group -- 46,000 pounds;
- (C) three axle group -- 60,000 pounds;
- (D) four axle group -- 70,000 pounds;
- (E) five axle group -- 81,400 pounds; or
- (F) trunnion axles -- 60,000 pounds if;
  - (i) the trunnion configuration has two axles;
  - (ii) there are a total of 16 tires for a trunnion configuration; and
  - (iii) the trunnion axle as shown in the following diagram is 10 feet in width.

Figure: 43 TAC §28.92(c)(3)(F)(iii)
(4) A permit issued under this subchapter does not authorize the vehicle to exceed manufacturer’s tire load rating.

(d) Vehicles exceeding weight limits. Any vehicle exceeding weight limits outlined in subsection (c) of this section, shall apply directly to the department for an oversize or overweight permit in accordance with §28.11 of this chapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(e) Registration. Any vehicle or combination of vehicles permitted under this subchapter shall be registered in accordance with Transportation Code, Chapter 502.

(f) Travel conditions. Movement of a permitted vehicle is prohibited when visibility is reduced to less than 2/10 of one
mile or the road surface is hazardous due to weather conditions such as rain, ice, sleet, or snow, or highway maintenance or construction work.

(g) Daylight and night movement restrictions. An oversize permitted vehicle may be moved only during daylight hours; however, an overweight only permitted vehicle may be moved at any time.

(h) Restrictions.

(1) Any vehicle issued a permit by the Port of Brownsville must be weighed on scales capable of determining gross vehicle weights and individual axle loads. For the purpose of ensuring the accuracy of the permit, the scales must be certified by the Texas Department of Agriculture or accepted by the United Mexican States.

(2) A valid permit and certified weight ticket must be presented to the gate authorities before the permitted vehicle shall be allowed to exit or enter the port.

(3) A copy of the certified weight ticket shall be retained by the Port of Brownsville and become a part of the official permit record subject to inspection by department personnel or Texas Department of Public Safety personnel.

(4) The owner of a vehicle permitted under this subchapter must be registered as a motor carrier in accordance

NOTE: Additions underlined Exhibt F
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with Transportation Code, Chapters 643 or 645, prior to the
oversize or overweight permit being issued. The Port of
Brownsville shall maintain records relative to this subchapter,
which are subject to audit by department personnel.

(4) [5+] Permits issued by the Port of Brownsville shall
be in a form prescribed by the department.

(5) [6+] The maximum speed for a permitted vehicle shall
be 55 miles per hour or the posted maximum, whichever is less.

[(7) This subchapter expires June 1, 2009.]

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Exhibit F
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SUBCHAPTER H. CHAMBERS COUNTY PERMITS


(a) Surety bond. **The department may require** Chambers County to post a surety bond in the amount of $500,000 for the purpose of reimbursing the department for actual maintenance costs of Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park in the event that sufficient revenue is not collected from permits issued under this subchapter.

(b) Verification of permits. All permits issued by Chambers County shall be carried in the permitted vehicle.

Chambers County shall provide access [or a phone number] for verification of permit authenticity by law enforcement and department personnel.

(c) Training. Chambers County shall secure any training necessary for personnel to issue permits under this subchapter. The department may provide assistance with training upon request by Chambers County.

(d) Accounting. The department shall develop accounting procedures related to permits issued under this subchapter for the purpose of revenue collections and any payment made to the department under subsection (h) of this section.

(e) Audits. The department may conduct **annual** audits of
all [permits issued by] Chambers County permit activities [semi-annually] or upon direction by the executive director [under this subchapter]. In order to insure compliance, audits will at a minimum include a review of all permits issued, financial transaction records related to permit issuance, review of vehicle scale weight tickets and monitoring of personnel issuing permits under this subchapter.

(f) Revocation of authority to issue permits. If the department determines as a result of an audit that Chambers County is not complying with this subchapter, the executive director will issue a notice to Chambers County allowing 30 days to correct any non-compliance issue. If after 30 days it is determined that Chambers County is not in compliance, then the executive director may revoke Chambers County’s authority to issue permits.

(1) Upon notification that its authority to issue permits under this subchapter has been revoked, Chambers County may appeal the revocation to the commission in writing.

(2) In cases where a revocation is being appealed, Chambers County’s authority to issue permits under this subchapter shall remain in effect until the commission makes a final decision regarding the appeal.

(3) Upon revocation of authority to issue permits,
termination of the maintenance contract, or expiration of this subchapter, all permit fees collected by Chambers County, less allowable administrative costs, shall be paid to the department.

(g) Permit fees. Permit fees collected under this subchapter shall be used solely to provide funds for the payments provided for under Transportation Code, §623.253, less administrative costs.

(1) The permit fee shall not exceed $80 per trip. Chambers County may retain up to 15% of such permit fees for administrative costs, and the balance of the permit fees shall be deposited in the state highway fund to be used for maintenance of Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park.

(2) Chambers County may issue a permit and collect a fee for a permit issued under this subchapter for any vehicle or vehicle combination exceeding vehicle size or weight as specified by Transportation Code, Chapter 621, Subchapters B and C [weighing up to 100,000 pounds, and with load dimensions not exceeding 12’ wide, 16’ high or 110’ long,] traveling only on Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park.

(h) Maintenance contract. Chambers County shall enter into a maintenance contract with the department for the maintenance of Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park.
of Farm-to-Market Road 1405 and the frontage road of State
Highway 99 located in the Cedar Crossing Business Park.

[(1) The maintenance contract shall provide for a system
of payments of all permit fees, less allowable administrative
costs, from Chambers County to the state highway fund to
maintain Farm-to-Market Road 1405 and the frontage road of State
Highway 99 located in the Cedar Crossing Business Park to the
current level of service or pavement conditions.]

(1) [(2)] Maintenance shall include, but is not limited
to, routine maintenance, preventive maintenance, and total
reconstruction of the roadway and bridge structures as
determined by the department to maintain the current level of
service.

(2) Chambers County may make direct restitution to the
department for actual maintenance costs in lieu of the
department filing against the surety bond described in
subsection (a) of this section, in the event that sufficient
revenue is not collected.

(i) Reporting. Chambers County shall provide monthly and
annual reports to the department’s Finance Division regarding
all permits issued and fees collected. The report must be in a
format approved by the department.
§28.102. Permit Issuance Requirements and Procedures.

(a) Permit application. Application for a permit issued under this subchapter shall be in a form approved by the department, and shall at a minimum include:

(1) the name of the applicant;

(2) date of issuance;

(3) signature of the designated agent of Chambers County;

(4) a statement of the kind of cargo being transported;

(5) the maximum weight and dimensions of the proposed vehicle combination;

(6) the kind and weight of each commodity to be transported, not to exceed loaded dimensions of 12’ wide, 16’ high, or 110’ long, or 100,000 pounds gross weight;

(7) a statement of any condition on which the permit is issued;

(8) a statement that the cargo shall be transported over the most direct route using only Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park;

(9) the location where the cargo was loaded; and

(10) the date or dates on which movement authorized by the permit is allowed.

(b) Permit issuance.
(1) General.
   (A) The original permit must be carried in the vehicle for which it is issued.
   (B) A permit is void when an applicant:
      (i) gives false or incorrect information;
      (ii) does not comply with the restrictions or conditions stated in the permit; or
      (iii) changes or alters the information on the permit.
   (C) A permittee may not transport an overdimension or overweight load with a voided permit.

(2) Payment of permit fee. Chambers County may determine acceptable methods of payment. All fees transmitted to the department must be in U.S. currency.

(c) Maximum permit weight limits.
   (1) An axle group must have a minimum spacing of four feet, measured from center of axle to center of axle, between each axle in the group, to achieve the maximum permit weight for the group.
   (2) Two or more consecutive axle groups must have an axle spacing of 12 feet or greater, measured from the center of the last axle of the preceding group to the center of the first axle of the following group, in order for each group to be permitted

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for maximum permit weight.

(3) Maximum permit weight for an axle or axle group is based on 650 pounds per inch of tire width or the following axle or axle group weights, whichever is the lesser amount;

(A) single axle--25,000 pounds;

(B) two axle group--46,000 pounds;

(C) three axle group--60,000 pounds;

(D) four axle group--70,000 pounds;

(E) five axle group--81,400 pounds;

(F) trunnion axles--60,000 pounds if:

(i) the trunnion configuration has two axles;

(ii) there are a total of 16 tires for a trunnion configuration; and

(iii) the trunnion axle as shown in the following diagram is 10 feet in width.

Figure: 43 TAC §28.102(c)(3)(F)(iii)
(4) A permit issued under this subchapter does not authorize the vehicle to exceed manufacturer’s tire load rating.

(d) Vehicles exceeding weight limits. Any vehicle exceeding weight limits outlined in subsection (c) of this section, shall apply directly to the department for an oversize or overweight permit in accordance with §28.11 of this chapter (relating to General Oversize/Overweight Permit Requirements and Procedures).

(e) Registration. Any vehicle or combination of vehicles permitted under this subchapter shall be registered in accordance with Transportation Code, Chapter 502.

(f) Travel conditions. Movement of a permitted vehicle is prohibited when visibility is reduced to less than 2/10 of one
mile or the road surface is hazardous due to weather conditions such as rain, ice, sleet, or snow, or highway maintenance or construction work.

(g) Daylight and night movement restrictions. An oversize permitted vehicle may be moved only during daylight hours; however, an overweight only permitted vehicle may be moved at any time.

(h) Restrictions.

(1) Any vehicle issued a permit by Chambers County must be weighed on scales capable of determining permitted loaded gross vehicle weights and individual axle loads. For the purpose of ensuring the accuracy of the permit, the scales must be certified by the Texas Department of Agriculture.

(2) A copy of the certified weight ticket shall be retained by Chambers County and become a part of the official permit record subject to inspection by department personnel or Texas Department of Public Safety personnel.

(3) The owner of a vehicle permitted under this subchapter must be registered as a motor carrier in accordance with Transportation Code, Chapters 643 or 645, prior to the oversize or overweight permit being issued. Chambers County shall maintain records relative to this subchapter, which are subject to audit by department personnel.

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(4) Permits issued by Chambers County shall be in a form prescribed by the department.

(5) The maximum speed for a permitted vehicle shall be 55 miles per hour or the posted maximum, whichever is less.

(i) Issuing entity. A motor carrier transporting loads that fall within the size and weight limits of §28.101 of this subchapter (relating to Responsibilities) on trips originating and terminating within the Cedar Crossing Business Park using Farm-to-Market Road 1405 or the frontage road of State Highway 99 must obtain a permit from Chambers County.

SUBCHAPTER I. COMPLIANCE

§28.110. Purpose. The purpose of this subchapter is to provide for an efficient and effective system of enforcement of Transportation Code, Chapters 621, 622, and 623 by setting out procedures for citing violations related to the operation, with or without oversize or overweight permits, of vehicles or combination of vehicles on a public road or highway in the state in excess of the applicable maximum weight, height, length, or width.

§28.111. Applicability.

(a) A person operating a vehicle for which a permit under this chapter is required shall comply with all applicable terms,
conditions, and requirements of the permit, and with this chapter and Transportation Code, Chapters 621, 622, or 623 as applicable.

(b) A person operating on a public road or highway a vehicle for which a permit under this chapter is not required shall comply with the weight and size provisions of Transportation Code, Chapters 621, 622, or 623.

(c) Gross weight registration. A person may not operate on a highway or public road a vehicle that exceeds its gross weight registration.

§28.112. Falsification of Information on Application and Permit.

(a) A person who provides false information on the permit application or another form required by the department for the issuance of an oversize or overweight permit commits a violation of this chapter and is subject to revocation of an oversize or overweight permit and the enforcement provisions of Subchapter K of this chapter.

(b) A person violates this chapter if the person produces a counterfeit permit or alters a permit issued by the department.

(a) For a shipper's certificate of weight to be valid, the shipper must:

   (1) certify that the information contained on the form used for the shipper’s certificate of weight is accurate; and

   (2) deliver the certificate to the motor carrier or other person transporting the shipment before:

      (A) the motor carrier or person applies for an overweight permit under this chapter; or

      (B) the motor carrier or person begins to transport the shipment if the motor carrier or person does not apply for an overweight permit because of the information in the certificate.

(b) A motor carrier who holds an annual envelope permit issued under this chapter may rely on the shipper's certificate of weight to determine whether the shipment requires an additional overweight permit.

(c) It is an affirmative defense to an administrative enforcement action under this chapter for the failure of a person or the holder of a permit to obtain the required overweight permit that the person relied on a valid shipper's certificate of weight.

§28.114. Compliance with Remote Permit System. A person who by contract is authorized by the department to access the

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electronic filing applications system shall comply with all of
the requirements of the contract and any conditions placed on
the permits.

§28.115. Permits Issued by Another State. A permit issued by
another state under an authorized reciprocal agreement is
subject to this chapter and Transportation Code, Chapters 621,
622, or 623 as applicable, as if the permit were issued by the
department.

§28.116. Permit Compliance. A permit issued under this chapter
becomes invalid immediately on the violation of a rule or a
condition or requirement placed on the permit. Movement over a
highway or public road of the vehicle for which the permit was
issued after the permit becomes invalid under this section is a
violation of this chapter and subject to enforcement action
under this chapter and Transportation Code, Chapter 621, 622, or
623.
SUBCHAPTER J. RECORDS AND INSPECTIONS

§28.200. Purpose. The purpose of this subchapter is to advise persons who are subject to Transportation Code, Chapters 621, 622, or 623 of the information and records that they are required to maintain, where and how long the records must be maintained, and department procedures for examining and inspecting these records.

§28.201. Investigations and Inspections of Records.

(a) Inspections.

(1) A person shall give an inspector access to the person’s premises to conduct inspections or investigations of an alleged violation of this chapter or Transportation Code, Chapters 621, 622, or 623. The person shall provide adequate workspace with reasonable working conditions and shall allow the inspector to copy and verify records and documents.

(2) The inspector will conduct inspections and investigations during normal business hours unless mutual arrangements have been made otherwise.

(3) The inspector will present to the person the inspector’s credentials and a written statement from the department indicating the inspector’s authority to conduct the investigation.
(b) Access. A person shall provide access to requested records and documents at:

(1) the person’s principal place of business; or

(2) a location agreed to by the department and the person.

(c) If a time and location cannot be agreed upon, the department shall designate the time and location by certified mail or facsimile.


(a) General records to be maintained. Each person who is subject to this chapter shall maintain at its principal place of business in this state:

(1) operational logs, insurance certificates, and documents to verify the person’s operations;

(2) complete and accurate records of services performed;

(3) all certificate of title documents, shipper's certificate of weight, including information used to support the shipper’s certificate of weight, weight tickets, permits for oversize or overweight vehicles and loads, dispatch records, load tickets, waybill or any other document that verify the operations of the vehicle to determine the actual weight, insurance coverage, size or capacity of the vehicle, and the
(b) Location of files. Each person who is subject to this chapter shall maintain at the principal place of business all records and information required by the department.

(c) Copies of permits. A copy of the oversize or overweight permit shall be maintained in the vehicle for which the permit was issued during the period that the permit is required. On demand by a department inspector or any other authorized government personnel, the driver of the vehicle shall present the permit to that person.

(d) Preservation and destruction of records. Information required under this section shall be maintained for not less than two years at the person’s principal business address.
SUBCHAPTER K. ENFORCEMENT

§28.300. Purpose. The purpose of this subchapter is to provide for an efficient and effective system of enforcement of Transportation Code, Chapters 621, 622, and 623 and the rules adopted under those chapters by setting out procedures for administrative penalties, revocation, and denial of oversize or overweight permits.

§28.301. Administrative Penalties.

(a) Authority. The department may impose an administrative penalty against a person who:

(1) provides false information on a permit application or another form provided to the department concerning the issuance of an oversize or overweight permit;

(2) violates this chapter or Transportation Code, Chapters 621, 622, or 623;

(3) violates an order adopted under this chapter or Transportation Code, Chapters 621, 622, or 623; or

(4) fails to obtain an oversize or overweight permit that is required under this chapter or Transportation Code, Chapters 621, 622, or 623.

(b) Amount of penalty.

(1) Except as provided by this section, the amount of the penalty may not exceed $5,000 for each violation.
(2) If it is found that the person knowingly committed a violation, the penalty for that violation may be in an amount not to exceed $15,000. A person acts knowingly if the person acts with knowledge that the act constitutes or violates Transportation Code, Chapters 621, 622, or 623, this chapter, or an order adopted under this chapter.

(3) If it is found that the person knowingly committed multiple violations, the aggregate penalty for the multiple violations may be in an amount not to exceed $30,000. Multiple violations are all violations arising during a single episode under one scheme or course of conduct.

(4) Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty under this section.

(5) Amount of penalty. Any recommendation that a penalty should be imposed must be based on the following factors:

   (A) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts, and the hazard or potential hazard created to the health, safety, or economic welfare of the public;
   
   (B) the economic harm to property or the environment caused by the violation;
   
   (C) the history of previous violations;
   
   (D) the amount necessary to deter future violations;
(E) efforts made to correct the violation; and

(F) any other matters that justice may require.


(a) The department may revoke, suspend, or deny an oversize or overweight permit if the person or permit holder:

(1) provides false information on the permit application or another form provided to the department concerning the issuance of an oversize or overweight permit;

(2) violates this chapter or Transportation Code, Chapters 621, 622, or 623;

(3) violates an order adopted under this chapter or Transportation Code, Chapters 621, 622, or 623; or

(4) fails to obtain an oversize or overweight permit that is required under this chapter or Transportation Code, Chapters 621, 622, or 623.

(b) The department may probate a suspension ordered under this section.

(1) In determining whether to probate a suspension, the department will review:

(A) the seriousness of the violation;

(B) prior violations by the person;

(C) whether the department has previously probated a suspension for the person;
(D) cooperation by the person in the investigation and

enforcement proceeding; and

(E) the ability of the person to correct the

violations.

(2) The department shall set the length of the probation

based on the seriousness of the violation and previous

violations by the person.

(3) The department will require that the person whose

suspension is probated report monthly to the department any

information necessary to determine compliance with the terms of

the probation.

(4) The department may revoke the probation and impose a

defered administrative penalty if the person fails to abide by

any terms of the probation.

§28.303. Implications for Nonpayment of Penalties; Grounds for

Action. The department may not issue an oversize or overweight

permit to the person who has not paid an administrative penalty

that is due or for the vehicle that is the subject of the

enforcement order until the amount of the delinquent

administrative penalty has been paid to the department.


(a) If the department decides to take an enforcement action
under §28.301 or §28.302 of this subchapter, the department shall give written notice to the person against whom the action is being taken by first class mail to the person’s address as shown in the records of the department.

(b) The notice required by subsection (a) of this section must include:

(1) a brief summary of the alleged violation;

(2) a statement of each enforcement action being taken;

(3) the effective date of each enforcement action;

(4) a statement informing the person of the person’s right to request a hearing;

(5) a statement describing the procedure for requesting a hearing, including the period during which a hearing request must be made; and

(6) a statement that the proposed penalties and sanctions will take effect on the date specified in the letter if the person fails to request a hearing.

(c) The person must submit a written request for a hearing to the address provided in the notice not later than the 26th day after the date the notice required by subsection (a) of this section is mailed.

(d) On receipt of the written request for a hearing, the department will refer the matter to the State Office of Administrative Hearings. When the hearing is set, the
department will give notice of the time and place of the hearing to the person.

(e) If the person does not make a written request for a hearing or enter into a settlement agreement under §28.305 of this subchapter before the 27th day after the date that the notice is mailed, the department's decision becomes final and unappealable on that date.

§28.305. Settlement Agreements.

(a) The department and the alleged violator may enter into a compromise settlement agreement at any time before the issuance of a final decision. The compromise settlement agreement must provide that the alleged violator consents to the assessment of a specified administrative penalty or to the imposition of the specified administrative sanction by the department against the alleged violator and must be signed by the alleged violator and the director. A compromise agreement is not an admission of the alleged violation.

(b) If the settlement agreement requires the payment of a penalty to the department, the alleged violator must submit a cashier's check or money order to the department in the agreed amount before the agreement may be executed.

(c) The settlement agreement must include a clause that authorizes the department to revoke the settlement agreement and
initiate a hearing on the alleged violations if the alleged
violator fails to abide by the terms of the settlement
agreement.

(d) Upon the execution by the director of a settlement
agreement, the administrative proceeding ends. The settlement
agreement is a department order that is final and unappealable.

§28.306. Administrative Penalty for False Information on
Certificate by a Shipper.

(a) The department may investigate and impose an
administrative penalty on a shipper who provides false
information on a shipper's certificate of weight that the
shipper delivers to a person transporting a shipment.

(b) The notice and hearing requirements of §28.304 of this
subchapter apply to the imposition of an administrative penalty
under this section.

(c) The amount of an administrative penalty imposed under
this section is calculated in the same manner as the amount of
an administrative penalty imposed under §28.301 of this
subchapter.